

# STATES OF JERSEY



## **DRAFT GAMBLING (REMOTE GAMBLING DISASTER RECOVERY) (AMENDMENT) (JERSEY) REGULATIONS 201- (P.199/2010): COMMENTS**

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**Presented to the States on 1st March 2011  
by the Economic Affairs Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

### Introduction

This report sets out the comments of the Economic Affairs Scrutiny Panel to the States on *P.199/2010 – Draft Gambling (Remote Gambling Disaster Recovery) (Amendment) (Jersey) Regulations 201-*.

The Draft Regulations were debated in the States on 16th February 2011. Following the debate on, and assent of the States to, the principles of the legislation, the Bailiff asked the Chairman of the Economic Affairs Scrutiny Panel whether his Panel wished to scrutinise the Regulations under Standing Order 72. When the Chairman confirmed that the Panel wished to do so, the debate was brought to an end in accordance with Standing Orders to enable the Panel to undertake its review.

The Panel decided to examine the Regulations for the following reasons –

- The fact that the title of the Regulations did not correlate accurately with the content of the Regulations, and thus did not alert members of the public to the fact that the Regulations contained the substantive detailed provisions regarding e-gaming.
- The fact that the detailed provisions were not contained in the much anticipated and touted Gambling (Jersey) Law 201-, which may confuse or mislead other stakeholders.
- The fact that no Codes of Practice had been produced or published by the Jersey Gambling Commission, despite references to them being contained in the Regulations and the lack of any consultation on the Codes.
- The fact that following the States' approval of the Draft Regulations, e-gaming would come into force within 14 days.

In order not to delay the Regulations unduly, the Panel decided to undertake a brief Review of the documentation produced and legislation enacted to date, to see whether the concerns expressed and safeguards sought by States Members in earlier debates had been addressed in the Draft Regulations.

The Panel expedited its Review, and undertook a significant amount of research in a very short period of time. It requested and received information from the Economic Development Department (the Department) and the Jersey Gambling Commission (JGC), and held 2 Public Hearings: a joint Hearing with the Minister for Economic Development (the Minister) and the JGC, and a separate hearing with Deputy P.V.F. Le Claire of St. Helier. Transcripts have been produced of these Hearings, which have been uploaded onto the Scrutiny website – <http://www.scrutiny.gov.je/>.

The Panel is grateful to the stakeholders who have contributed to the Review and assisted it to complete its work in such a timely manner.

## Methodology

The Panel examined these Draft Regulations holistically, looking at them in the context of –

- *R.C.50/2002 – Modernising Jersey’s Gambling Legislation*
- *P.62/2004 – Modernisation of Jersey’s Gambling Legislation*
- *Gambling (Remote Gambling Disaster Recovery) (Jersey) Regulations 2008 [Revised Edition: chapter 11.300.80]*
- *Gambling Commission (Jersey) Law 2010 [L.11/2010]*
- *P.28/2010 – Establishment of a regulatory and licensing regime for e-gaming for Jersey.*

Had the final drafts of Codes of Practice also been available from the Gambling Commission, they too would have formed part of this holistic approach.

The Panel undertook this approach because the Regulations can only be properly understood when they are studied in context: that is, in relation to the Articles and principles contained in the primary Law; the secondary legislation being amended; Proposition *P.28/2010*; and with the views expressed by States Members and the promises and statements made by the Minister and his Assistant Minister during the debates on gambling legislation.

To assist the Panel, States Members and the public, a specific request was made to the Department for a marked-up copy of the proposed amended *Draft Gambling (Remote Gambling Disaster Recovery) (Jersey) Regulations 2008*, which is attached as the **Appendix** to these Comments.

## Title of the Regulations

On 1st December 2009 during the debate on the *Draft Gambling Commission (Jersey) Law 200- (P.139/2009)*, the Chairman gave clear notice to the Minister and the States that the Panel was minded to give full consideration to undertaking work when the anticipated legislative framework for the establishment of an e-gaming industry was brought forward –

*‘since...the Economic Affairs Scrutiny Panel, came in today we have been lobbied left right and centre to scrutinise this legislation that is coming through...However, a lot of discussion has been taking place...and we will not be scrutinising this piece of legislation. However, I will state to the House, e-gaming is something totally different. When that comes forward, we probably will have a look at it.’<sup>1</sup>*

When *P.28/2010 – Establishment of a regulatory and licensing regime for e-gaming for Jersey* was debated by the States on 21st April 2010, it proposed that the States should agree –

*to request the Minister for Economic Development to make provision for the regulation and licensing of e-gaming within the draft Gambling (Jersey) Law 201-;*

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<sup>1</sup> States of Jersey Hansard, 1st December 2009

Indeed, the accompanying report to the Proposition makes repeated reference to development of the Draft Gambling (Jersey) Law 201-. Given this fact, it was not unreasonable therefore, that –

- States Members, stakeholders and the Public might wait in anticipation for draft legislation of that name; or
- be adequately notified of any change of plan to the title of that advertised legislation.

It was perhaps not surprising, therefore, that there was some confusion in the States Assembly on 16th February 201- when the Draft Regulations came up for debate.

All States members, whether Ministers in charge of departments or non-Executive Members who are engaged in Scrutiny or constituency work, have heavy workloads, and deal weekly with a high volume of paperwork. The latter, out of necessity, has to be prioritised.

The title of the Draft Regulations was highly misleading and some Members were honest enough to admit, or indicate, in the States Assembly, that they had not read the Draft Regulations because they erroneously believed that it related to what it said on the front cover – remote disaster recovery measures for gambling enterprises. Rightly or wrongly, the States Members concerned considered it to be a technical piece of legislation which in their eyes merited a lower priority than it actually demanded. Had the Regulations been correctly and transparently titled to reflect the true purpose of the legislation, i.e. that it contained the substantive e-gaming provisions, they would no doubt have given it a higher priority and scrutinised it accordingly.

Simply put, this title bore no resemblance to the working title Draft “Gambling (Jersey) Law 201-” that Members and the public expected and that the Minister had indicated that he would be bringing to the States.

The Panel also does not understand how States Members can properly scrutinise any amendments to legislation without reference back to the original legislation that is being amended, in order to see the amendments in context. It is for this reason that the Panel requested and used a marked-up copy of the original Regulations from the Department during its Review. These are used by the Officers and Law Draftsman responsible for drawing up the legislation to ensure that there are no anomalies or unforeseen errors within the revised legislation as a whole.

These facts, when combined with the other reasons stated above, gave the Panel serious concern. It felt that such a significant piece of legislation should not be approved, or rejected by, States Members who were insufficiently informed or prepared to take such an important decision. The Panel therefore decided to scrutinise the Regulations under Standing Order 72.

**Finding:**

**The title of the Regulations as presented to the States did not make clear their significance and extent, and so were not transparent, contrary to the Aim stated contained in the 2009 Strategic Plan to create a responsive government which embraces a progressive culture of openness, transparency and accountability to the public.**

**Recommendation:**

**Major changes to legislation should only be properly made through the development of primary legislation. In rare cases where there is an argument for making major changes by way of amending Regulations, this should be made clear in the name of the proposition presented to the States, for good order and transparency.**

**Recommendation:**

**When lodged, draft amendments to existing legislation or Regulations should be accompanied by a marked-up copy of the proposed legislation or Regulations, with all amendments shown in a separate colour to distinguish them from the existing wording (see Appendix 1 by way of example). Explanatory notes should also be included.**

**Consultation on the Regulations**

Given the significance of the Draft Regulations and the many concerns raised by States Members and other stakeholders during the development of the e-gaming legislation in Jersey, the Panel expected that a broad and ongoing consultation exercise would be carried out.

As the Panel was unaware that any consultations had been carried out on the Draft Regulations, it asked the Minister and JGC at the Public Hearing what consultations had taken place. The Minister and JGC explained that in 2007, the Shadow Gambling Commission, with co-operation from the Department, had issued 3 consultation documents on –

- harm reduction;
- broadening the industry; and
- regulatory principles.

These consultations were completed towards the end of 2007 and the Shadow Board reported its findings in January 2008.

The consultation exercise had been public, and had elicited 29 responses in relation to online gambling from members of the public, faith groups, e-gaming related industry members, and the hospitality industry. The result was inconclusive, with 15 individual and group responses in favour of having an online gambling regime, and 14 against.

Particularly in view of this very mixed response, the Panel asked what consultation had been undertaken specifically on these Draft Regulations –

***‘Mr. J. Lane, Chief Executive, Jersey Gambling Commission:***

*.... the briefings that we put forward and asked for States Members to come to before the in principle debate.*

***Deputy M. Higgins (Chairman):***

*But what consultation did you do with the wider community, rather than just the States?*

***Mr. J. Lane, Chief Executive, Jersey Gambling Commission:***

*We have not done a wider consultation. As you know, we generally do not have a consultation on individual pieces of legislation unless they are specific to an industry. I would not imagine that many non-professional people, other than having a general interest, would be able to comment on the specifics...’*

The Minister was asked whether it would not have been better to have allowed the public to comment on these Regulations in draft, to have put the draft out and say, “This is what we intend to do ... What do you think?”

***‘Senator A. Maclean, Minister for Economic Development:***

*No. I do not think that is necessary to do that. We have been through a consultation process. We have established the position, the public view, which is absolutely right. More importantly, we have put in place a strong regulatory regime with a Gambling Commission of the highest quality, and that is the way in which we ensure we protect the young, and the vulnerable people from gambling, gambling that already exists, not only the terrestrial gambling industry that we have existing already in the island, but E gaming, which also exists in Jersey. We are not creating more gambling in this proposition at all. We are just recognising the fact that there is gambling going on and we are seeking to benefit from the economic potential, and there are also, of course, social benefits to the island in adopting a principle of this nature. But, no, I do not think any further consultation on the detail of individual regulations, which are complicated, would have added any value whatsoever. Meeting international standards is absolutely imperative and that is the role of the Jersey Gambling Commission, to ensure that we do that.’<sup>2</sup>*

In the context outlined above of the split response to the original consultation exercise on online gambling and the many concerns raised by States Members during related debates, the Panel concludes that that response is wholly unsatisfactory, and that full public consultation on the way that the Draft Regulations would work in practice should have been undertaken.

**Finding:**

**A full public consultation on the way that the Draft Regulations would work in practice should have been undertaken.**

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<sup>2</sup> Transcript of Public Hearing with Minister for ED and JGC, 22nd February 2011

## **Consultation on the Codes of Practice**

Codes of Practice form an essential part of any regulatory regime. In Jersey, the Responsible Gambling Codes of Practice for E-Gaming Operators are in effect binding elements of any licence granted, setting the tone of the Regulatory regime and providing the means to address the many social impact concerns that have been expressed by States Members and other stakeholders during the development of the e-gaming framework for the Island.

Given that, the very least that might have been expected prior to the States being asked to adopt these significant Draft Regulations, is for final Codes of Practice to be in place, especially given how (see below) the Codes are inherent to those very Regulations. However, the fact is that the Codes of Practice have not yet even been approved by the Board of the JGC, let alone been subject to wider publication or any form of consultation. The first sight that this Panel has seen of the draft Codes was when we received a copy on Monday 24th February 2011, after we had invoked the right to refer the Draft Regulations to Scrutiny and the day before the Hearing with the Minister and JGC.

### **How the Codes of Practice relate to the Regulations:**

The following is a list of all parts of the final Draft Regulations that relate to the Codes of Practice, highlighting their inherent significance and their statutory force in so far as a licensee is required to comply with them.

#### **1 Interpretation**

In these Regulations, unless the context otherwise requires –

“activating disaster” has the meaning assigned by Regulation 3;

“code of practice” means a code of practice approved under Article 6 of the Gambling Commission (Jersey) Law 2010;

#### **8 Circumstances in which Commission may grant remote gambling operator’s licence**

(1A) The Commission shall not grant a remote gambling operator’s licence unless it is satisfied that an independent person approved by the Commission has tested each item of equipment, including software, that may affect –

(a) the outcome of remote gambling under the licence; or

(b) whether the person will conduct the gambling in accordance with the guiding principles and in compliance with any relevant code of practice.

(2) Without limiting the matters that the Commission may take into account in determining whether to grant a remote gambling operator’s licence to a person under Regulation 7, the Commission shall take into account –

- (c) the adequacy of the person's systems (including equipment and software), and of any testing carried out on those systems, that are in place in relation to remote gambling to ensure that the person conducts the gambling in accordance with the guiding principles and in compliance with any relevant code of practice, including but not limited to whether the systems are adequate to ensure that –

#### **11A Supplementary conditions**

- (4) Supplementary conditions, whether standard or otherwise –
  - (a) may apply to all forms of remote gambling or to all licences or may vary by form of remote gambling or licence or other circumstance; and
  - (b) may be framed by reference to a code of practice, and may require compliance with a provision of such a code.
- (8) The matters that supplementary conditions shall cover are –
  - (f) the nature and use of any equipment (other than a controlling device), including software, that is capable of affecting –
    - (i) the outcome of remote gambling under the licence, or
    - (ii) whether that gambling will be conducted in accordance with the guiding principles and in compliance with any relevant code of practice;

#### **22 Licence may be made subject to conditions**

- (3) The Commission may impose any condition that it considers reasonable to promote observance of the guiding principles, good practice and these Regulations, including but not limited to –
  - (a) a condition requiring compliance with a provision of a code of practice;

#### **31 Breach of condition**

- (1) The holder of a licence granted under these Regulations shall not contravene a condition of the licence.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.
- (3) Paragraph (2) does not apply to a contravention of a condition if –
  - (a) the condition requires compliance with a provision in a code of practice; and



- (b) the contravention of the condition consists solely of a failure to comply with that provision in that code.
- (4) Paragraphs (2) and (3) do not limit any power of the Commission in relation to a contravention of –
  - (a) a condition of a licence; or
  - (b) a provision in a code of practice.

**The legal obligation to consult:**

The Panel was surprised to find that at the time of the debate on the Draft Regulations on 16th February 2011 no Codes of Practice had been produced, approved or consulted upon by the Jersey Gambling Commission. Only swift action will prevent the Minister breaking the 2010 Gambling Law if, as he says, the intention is that these Regulations would come into force in 2 weeks after the States approve them, and that 3 months after that, the first licences for e-gaming might be issued. This failure to consult was surprising bearing in mind –

- that the debate on the modernisation of gambling legislation took place in 2005, the Shadow Gambling Commission was introduced in 2006 and the independent Jersey Gambling Commission came into being in December 2009;
- the references in the Draft Regulations to, and importance of, the Codes of Practice to the regulation of the industry;
- the need for both regulator and regulated to know the terms under which e-gaming firms are to be licensed and regulated; and
- the legal obligation for consultation on the Codes, set out in the *Gambling Commission (Jersey) Law 2010*.

This latter document states –

**6 Good practice and codes of practice**

**(12) The Minister –**

- (a) ***must by Order require the Commission to consult in a specified manner before it approves a code (our emphasis); and***
- (b) ***may by Order –***
  - (i) *prescribe any aspect of the manner in which an approved code must be published, and*
  - (ii) *impose any other requirement on the Commission in relation to approval of codes.*

## **Australia: Uniform Standards for the Regulation of Interactive Gaming:**

The JGC drew the attention of the Panel to the *Australia: Uniform Standards for the Regulation of Interactive Gaming*, known as the AUS Model, as a piece of work that had informed their thinking in drafting the Jersey Regulations. It was interesting to note therefore that, as illustrated below, the JGC did not adopt the Australian model of consultation with both the public and industry once the Draft Regulations had been prepared –

*“the “Australia: Uniform Standards for the Regulation of Interactive Gaming” (the “AUS Model”) is the first major revision of the “Draft Regulatory Control Model for New Forms of Interactive Home Gambling”, (“DRM”) first released in 1997.*

*The DRM has formed the basis for all State and Territory laws governing interactive gaming. The new AUS Model sets out a national approach for the regulation of interactive gaming in accordance with uniform and consistent standards administered by the regulatory bodies in each State and Territory.*

*The focus of the AUS Model is on player protection, operator probity and system integrity. The revised Model provides for improved consumer information requirements, and introduces additional responsible gaming initiatives. It also provides for the regular and formal review of its terms.*

### ***Request for Comment***

*Comment is invited from any interested member of the community or industry on the proposed requirements contained in the AUS Model or on any aspect of the regulation of interactive gaming. Submissions are to be made in writing and sent to Review of the Regulation of Interactive Gaming Northern Territory Department of Industries and Business.”*

## **The JGC Position on the Codes:**

Responding to the Panel’s concerns at the Public Hearing held on 25th February, the Minister and the JGC explained their positions. The Chief Executive of the JGC stated –

*‘What we are generally trying to achieve is a system whereby the States can take comfort that the regulatory framework is there, but it is sufficiently flexible that, with the adaptation and change in technology, that every time that something new arises, we do not have to go back to the States to make consequential amendments.’*

He advised the Panel that the Codes were substantially finished, as demonstrated in the draft provided to the Panel ahead of the Hearing, and that they are based on international best practice.

He further stated that the JCG intends to 'tweak them', and to consult with colleagues in other jurisdictions, but that in his opinion, there was more than enough time to make the small changes required if the States decide to pass the Regulations.

Indeed he went on to explain that –

- the Codes were awaiting completion because the JCG wanted to see first whether the States approved the Regulations;
- that they have not been considered by the JGC Board; and
- that they would only be considered by the Board after the States actually passed the Regulations.

It was evident to the Panel that no consultation had taken place on the draft Codes, and that no meaningful consultation could take place in the timeframe available between the possible States approval on 16th February 2011 and the coming into force of the Regulations some 14 days later, when the first applications were expected to be received.

Although the JGC stated that they did not expect any applications to be determined for at least 3 months after the Regulations came into force and that this would give them sufficient time to complete their work on the Codes of Practice, the Panel was not convinced that this would be the case.

Nor did the Panel consider it to be satisfactory that applications from e-gaming entities could be determined or conditioned with reference to Codes of Practice when neither the regulator nor the applicant knew with certainty what they were.

**Finding:**

**Contrary to the *Gambling Commission (Jersey) Law 2010*, there has been no consultation on the draft Codes of Practice.**

**Finding:**

**There is a danger that the first e-gaming firms will be licensed before the approval of the Codes of Practice which are likely to form conditions on the licence.**

**Recommendation:**

**No applications in relation to full e-gaming licences should be determined before the Codes of Practice have been approved, and subject to full public consultation.**

## Social Harm

Although States Members have agreed in principle to the adoption of e-gaming legislation and e-gaming operations from servers located in Jersey, many States Members have repeatedly stressed the need for adequate measures to address the social harm issues that can be associated with gambling.

These measures include –

1. The adoption of Codes of Practice:

Codes of Practice lie at the heart of the social responsibly provisions and stipulate that customers should have information on such things as:

- what the game is,
- how it works,
- how it is regulated,
- how much they have gambled,
- how long they have gambled, and
- give customers the opportunity to link to information websites about problem gambling, about receiving help.

They also provide for exclusion and cooling-off periods, self-limits for those gambling and age verification requirements.

2. The creation of a Social Responsibility Panel and Fund –

Social responsibility funds are created and financed from industry levies and voluntary donations. They are used by a dedicated social responsibility panel to fund, for example, research into problem gambling, provide education in schools and in the media, and to fund information and self-help websites and provide face-to-face counselling with gambling addiction specialists.

3. Research into problem gambling:

Whilst gambling poses no problem for many people who gamble responsibly, it can also be addictive for a minority and lead to debt problems, marital breakdown and self-harm. Because of this, research into problem gambling must be undertaken to minimise the harm done and to put in place measures that will try to minimise or alleviate some of these outcomes.

4. Education in schools and in the media:

Education regarding gambling should be given to children of school age to advise them of the harm that addictive gambling poses. There should also be public awareness programmes in the media pointing out the signs of gambling addiction, the consequences and the help that is available.

5. Counselling in gambling addiction:

As with many addictions, gambling may not be cured without help. It is important that mechanism are available to assist those with a problem to come

to terms with it and hopefully overcome it. With on-line gambling this may be through dedicated websites, gambling addiction charities with telephones offering counselling in a way similar to the Samaritans, and also locally through face-to-face contact with gambling addiction specialists.

The Panel therefore examined the work that has been done in this area to ensure that arrangements were in place, to deal not only with the existing problem gamblers in the Island, but also with those who may become hooked once local on-line gaming from the Island comes into effect.

### **What has been done to date?**

The Panel took the opportunity to examine documentation and to seek information at the Public Hearing with the Minister and the JGC to examine exactly what work has done to date. The Minister started by acknowledging the legitimacy of these concerns both in the States Assembly and during our discussions as part of this Review, whilst pointing out that the development of an e-gaming industry in Jersey does not introduce more gambling into Jersey, as people in the Island are free to undertake such online gambling at present.

### **Social Responsibility Fund**

The argument is in fact made that developing the e-gaming industry would in fact allow the generation of funds (for example the Social Responsibility Fund) from the industry to pay for additional support for people already requiring help for gambling addiction and for education programmes to those which currently exist.

By way of important context, it is perhaps worth taking note of the some of the messages contained within the UK Gambling Commissions 2008 report into the findings from the 2007 British Gambling Prevalence Survey. In particular, it was re-affirmed that Internet gamblers were more likely to be problem gamblers than offline gamblers. It was also pointed out that –

*The rise and challenges of internet gambling cannot be seen in isolation particularly as there is ever-increasing multi-media integration between the internet, mobile phones and interactive television. Furthermore, young people appear to be very proficient in using and accessing these media and are likely to be increasingly exposed to remote gambling opportunities. These young people will therefore require targeted education and guidance to enable them to cope with the challenges of convenience gambling in all its guises.*

In addition –

*Overall, results including the regression analysis showed a number of significant socio-demographic differences between internet gamblers and non-internet gamblers. When compared to non-internet gamblers, internet gamblers were more likely to be male, relatively young adults, single, well educated, and in professional/managerial employment. Problem gambling (as measured by the DSM-IV) was also significantly more likely among internet gamblers when compared to non-internet gamblers.*

## Codes of Practice

Although the Panel discovered, as stated above, that Codes of Practice have not been finalised, agreed by the Board of the Jersey Gambling Commission or consulted upon, the Minister explained to the Panel that –

*‘...we have put in place a strong regulatory regime with a Gambling Commission of the highest quality, and that is the way in which we ensure we protect the young, and the vulnerable people from gambling, gambling that already exists, not only the terrestrial gambling industry that we have existing already in the island, but E gaming, which also exists in Jersey...’*

## Research into Problem Gambling

The Panel asked what studies and research had been carried out to assess the local situation with regard to the numbers of existing and anticipated future problem gamblers that could be assisted by the new regulatory regime, and were told that there was a problem with the lack of information –

***Mr. J. Lane, Chief Executive, Jersey Gambling Commission:***  
*...The most important thing I think that we face is paucity of data.’*

It was put to the Minister and JGC that there had been a shadow gambling body for a number of years now, and they were pushed further by the Chairman on the research undertaken, who asked –

*‘...have you done any research into problem gambling within the island before now? Do you have any idea of the extent of problem gambling within Jersey, no matter what form it is? Whether it is E gambling or anything else?’*

***Mr. J. Lane, Chief Executive, Jersey Gambling Commission:***  
*...No, we did consider the idea of undertaking a study, but, for the amount -- to get a real understanding of problem gambling, you cannot just take a snapshot. You need to have a longitudinal study. So it needs to look at all aspects of gambling over at least a number of years. That is very expensive and resource hungry to do and, for a small jurisdiction, on balance, it is probably easier to extrapolate and look at the figures for the UK and round it down. It is certainly not perfect, it is not ideal, but, as far as cost benefit and weighing up the time and effort and money to do that, against the size of the problem and moving forward, it really did not make sense.*

***Deputy M. Higgins (Chairman):***  
*Have you done the extrapolation exercise?...*

***Mr. J. Lane, Chief Executive, Jersey Gambling Commission:***  
*...Well, yes, we have done that.*

***Deputy M. Higgins (Chairman):***  
*What was the size of the problem?*

***Mr. J. Lane, Chief Executive, Jersey Gambling Commission:***  
*I would need to consult my files, if truth be told, but it is 0.6 per cent.*

**Deputy D. Wimberley of St. Mary:**

*How many thousand of people is that? 0.6 per cent of adults. What do you reckon that comes to, because I can tell you if you have not got the figures off the top of your head, it is 450, or thereabouts.*

**Senator A. Maclean, Minister for Economic Development:**

*0.6 per cent.*

**Deputy D. Wimberley of St. Mary:**

*Of the adult population in Jersey is roughly 450 --*

**Senator A. Maclean, Minister for Economic Development:**

*Just to be absolutely clear about this, this is all forms of gambling.'*

### **Counselling in gambling addiction**

The Panel sought to discover what work had been undertaken to provide a support infrastructure for problem gamblers in the Island and abroad. The Panel was told –

**‘Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*Well, there is the Health and Social Services Therapy Unit.*

**Deputy M. Higgins (Chairman):**

*With dedicated people for gambling?*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*No.*

**Deputy D. Wimberley of St. Mary:**

*You see, my issue with this is I remember being told in, I think in the in principle debate, that one of the points about that was that the Gambling Commission and so on going forward would have the resources partly because of introducing E gaming to really help to identify, as you say, and to offer help to people who are afflicted with problem gambling in Jersey. Then, when we asked you, we find that, there is the HSS Therapy Unit and a budget of 14,500.*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*No, to be fair, you are looking backwards, Deputy. We have not actually passed this regulation to get the funds coming in for us to do this. The Commission, as a body, as I have said, has only had an executive six and a half weeks. So I really do not think it is fair to think that we could have established too much. But, looking –*

**Deputy M. Higgins (Chairman):**

*May I just mention on point on that. The States actually voted, when you were set up, I think it was £242,000, [for] the Gambling Commission and, according to regulations and everything else, you can use your own funds or other funds to actually fund this type of thing, in terms of the social funds. It is actually there in your own regulations.*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*Yes, we can.'*

The future health-related plans were outlined to the Panel. The JGC intends to engage further with either with GamCare or with Responsible Play, part of the Gordon Moody Association, to provide a web link for Jersey residents to be able to go to which they will publicise and print leaflets about accordingly.

People with a problem would not necessarily therefore have to go, as first port of call, to their G.P., or to try and find Gamblers Anonymous, but could access this website and get information directly from it and, importantly for policy formation with regard to social responsibility, this would provide real data about the numbers seeking help.

The JGC also indicated that the Gordon Moody Association had begun been working with the JGC and health professionals at Overdale to discuss the possibility in the very near future of running a training course for existing counsellors at the therapy unit to increase awareness of gambling addiction.

Subject to funding, the JGC would like to offer one of the counsellors the opportunity to become a dedicated gambling therapy specialist. The Chief Executive of the JGC explained –

*‘...The discussions that we have had with Health would indicate that a Grade 7 part-time depending on their use, we could be looking professional staff at anywhere between 12, 15,000 pounds a year. That would be non-residential on the island. If you are talking about residential, it would have to be at the present time in the UK....’*

***Deputy D. Wimberley of St. Mary:***

*But on the Grade 7, are you saying that that is the level of staff person who would be needed to help these people in counselling, or are you saying that is the cost per person?...*

***Mr. J. Lane, Chief Executive, Jersey Gambling Commission:***

*That would be the administrative grade of the type of counsellor.’*

Whilst the moves to introduce a qualified counsellor in gambling addiction are welcomed, the discussion again highlighted the lack of preparation that has taken place, as we understand from speaking to the Health and Social Services Department that only one meeting on this matter has been held to date and that rather than a Grade 7 post, the counsellor would in fact be at least a Grade 9 appointment. This is the same grade as the other addiction counsellors employed by the Department.

## **Education**

The Panel examined the work undertaken from an education perspective, and was again concerned at the limited amount of work that has taken place, despite the lodging of these Draft Regulations.

The Panel was told that in 2008 Mr. M. Buczkiewicz, Chief Executive of Tacade, an addiction specialist charity in the UK, had been to Jersey to talk about the work they do, primarily in schools, during a day’s meeting with a number of secondary school teachers. However, at this stage, the funding is not available to roll out a school-based programme. The Chief Executive of the JGC explained –



*'...Like everything else, it comes down to money. The Education Department did not have the funds to bring this form of education in. It is the sort of thing that the Gambling Commission would look to do in the future, if we have the funds.*

*We have formed part, as has the whole States, and I think it is absolutely right that the Gambling Commission bears its share of the pain, of CSR, and we have to cut our cloth accordingly. Once this form of new business comes in, we will expect online operators that are licensed in Jersey to make a contribution to the social responsibility fund and from that the social responsibility Panel, who have industry experts an addiction experts on there, will make recommendations to the Commission about how that should go forward.'*

Following up on the education plans, the Panel pressed further about what had been done about trying to get the education and schools and educate children about the dangers of gambling. The Chief Executive of the JGC responded –

*'I refer you to my previous comment about the visit of Martin Buczkiewicz...*

**Deputy M. Higgins (Chairman):**

*...The secondary head teachers, but have you developed a programme yet with the teachers or with education? Have you had any discussions with education about that?*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*We have had that solitary discussion with education. We have to prioritise our work programme. We have been to education. The timing was not right. We will look at it again once we have the legislative programme completed, at whatever level the States decides; once we have a new licensing round finished, if we have a new licensing round at all; once we have the preliminary views of the Social Responsibility Panel; and once we have ongoing discussions with the terrestrial industry.*

*The Minister has made it a policy objective to reform the gambling law, the primary gambling law, which, as I said, is a 1964 piece of legislation. There are only so many objectives you can have. We have to prioritise them. The Minister wants the legislation to be updated. It will all follow, but it is going to have to take time.'*

The Panel is not satisfied by the levels of preparation ahead of the lodging of these Draft Regulations on the strategies to address social harm concerns.

Despite repeated assurances given by those in charge of modernising Jersey's Gambling legislation and indeed developing the industry in Jersey, to address the concerns of States Members (including members within the current Council of Ministers) and other stakeholders with regard to social harm, the Panel believes that insufficient progress has been made in this area.

It believes that there has been more than adequate time available to those responsible for introducing the Law since the establishment of the shadow JGC, but money and time has been spent on other issues in a clear demonstration of the Department's priorities, and raise a real concern that money is being put before the welfare of people.

**Finding:**

**The Regulations allow applications to be made within 14 days of the legislation being approved by the States, for licences to run full e-gaming operations from Jersey. This is despite there being no published Codes of Practice.**

**Finding:**

**The Panel is concerned that there is very little progress on determining health and education provisions, which are fundamental in addressing the strong and repeated concerns of many stakeholders, including Ministers and other States Members, about social harm issues.**

**Recommendation:**

**The Minister for Economic Development should make a Statement to the States, before the summer recess in 2011, on the progress made in relation to education and health strategies and programmes addressing social harm concerns, covering research into incidence and impacts of gambling, manpower requirements, costs, and funding.**

**Economic Benefits**

The Minister for Economic Development and his predecessors have repeatedly set out what they believe to be the economic benefits associated with the development of an e-gaming sector in Jersey –

These are –

1. that it is a prime example of beneficial economic diversification;
2. that the industry should lead to significant benefits to the economy by leveraging the professional expertise that exists in the Island in terms of banking, fiduciary, accounting and so on;
3. the investment and development of the telecommunications sector;
4. employment opportunities;
5. that Jersey can accrue the benefits that have already been accrued by other jurisdictions.

The Panel examined the economic evidence put forward by the Minister to support these assertions during the Hearing on 25th February.

## **Examination of these benefits:**

### **1. Beneficial economic diversification**

Although the Minister provided no direct evidence of beneficial economic diversification the Panel accepts that worldwide on-line gambling is exceedingly profitable and would constitute economic diversification. Whether it will be beneficial to the Jersey economy, however, remains to be seen due to –

- the dangers to reputational risk; and
- the fact that these foreign-owned entities will not generate the high tax returns experienced in other centres as under Jersey's zero-ten tax regime they will pay no tax.

In addition, the licence fees paid by e-gaming firms will largely be absorbed by the Jersey Gambling Commission to cover the costs of regulating the sector.

Although Regulation 10(8) states that licence fees will increase according to the yield of the e-gaming operation and other Regulations contain anti-avoidance and information seeking powers for the Jersey Gambling Commission, the Panel wonders how effective these measures will be, given the global nature of the industry and its ability to move or switch the gambling activity through global distribution networks from one licensed centre to another in real time.

Although the Panel has not had sufficient time to explore this issue in depth, the following questions have sprung to mind. In such circumstances how would the yield be calculated? To what centre will the profits be attributed?

### **2. Leveraging the professional expertise that exists in the Island in terms of banking, fiduciary, accounting and so on**

Again, the Minister provided no direct evidence of leveraging, and the Panel questions how much leveraging there would be as the only high volume business that it thinks would be generated would be in money transmission services. There may, however, also be a rise in debt recovery actions or a need for forensic computer accountancy services to ensure compliance with the licence conditions, and that the appropriate yield-related licence fees are paid to the Jersey Gambling Commission.

### **3. The investment and development of the telecommunications sector**

One of the most compelling arguments put forward by the Minister to the States is the impact that e-gaming will have on investment in electronic data centres and improving bandwidth links\* with the rest of the world. Indeed, there has been much lobbying of States Members by businessmen providing these data centres and telecommunication links – businesses that would directly benefit from the introduction of e-gaming.

\* Note: It is not the cable links that determine bandwidth, but the equipment in the nodes at either end.

Whilst the Panel accepts that such investment would be extremely beneficial to the development of e-commerce and other knowledge-based industries in Jersey, it has not had sufficient time to fully explore this argument.

The Panel is concerned, however, that some of the alleged benefits may not materialise because the Regulations allow e-gaming operators to operate servers and parts of their operation outside Jersey, and thus may not require the level of investment in racks of servers in data centres or in the nodes at either end of the fibre-optic telecommunication links that connect Jersey with the UK and France that have been suggested.

The Panel was concerned about the possibility that some companies could use Jersey as part of a brass-plating exercise to suit their particular reputational needs. Whilst the Regulations require a “Jersey Person” with the meaning of a natural person, partnership or body corporate with dedicated and specified links with Jersey, they do not specify, for example, that the licence-holder must locate their servers in the Island, thus jeopardising the claims of economic benefit to Jersey. At the Public Hearing, the Chairman asked for clarification –

*‘...You have registered a business here. You have licensed them. We have seen at Alderney a data centre can be elsewhere. What specific provisions do you have to prevent them operating data centres outside Jersey? So, in other words, they are licensed here but a lot of the work is being done elsewhere.*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*I am not sure necessarily that there is anything intrinsically wrong with having part of your business somewhere else. So, from a regulatory perspective, so long as we have access to the information that we require and they voluntarily provide it, and we can tie into their systems, the fact that they do not have their HR function here or some of their banking function here...’*

The Chief Executive continued –

*‘Any company with any international savvy will have parts of their businesses backed up in other jurisdictions. I think that is good practice.*

**Deputy M. Higgins (Chairman):**

*Back up is one thing, but provision of data recovery and that is one of the reasons that that law was there in the first place. If they had a natural disaster, they could continue operating from here. In terms of location, we are getting a bit concerned here. If they are coming in the licensing in Jersey, what is to stop them having servers and most of their operations elsewhere?’*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*Nothing.*

**Deputy M. Higgins (Chairman):**

*Nothing. They could stay in Alderney or Guernsey, just have a brass plate and pay a licence fee in Jersey.*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*It is not a brass plate. It is not --*

**Deputy M. Higgins (Chairman):**

*I am using the analogy of a brass plate.*

The Chief Executive responded by saying it is about which regulatory environment those companies want to work in. He explained –

*'... Now, if they are going to get the Jersey licence, they have to be a Jersey person, whether natural or corporate. It has to be real. I would ask why they would seek to have a Jersey licence and yet not put their business here. That would be a cost with no benefit to them. So, while it would not be a criminal act, I would doubt the business viability of doing it. So we work on the assumption that, yes, they do want to be here, they do want to be regulated here, they will put their service here; **but the business models in the gambling industry are changing (our emphasis)**. There are links between different companies in different jurisdictions. They share customers quite often in B2B type platforms. As long as we have regulatory oversight of that and the customers know when they are moving from platform to platform and who they are being licensed or being regulated by, and everything is transparent to the customer, then, from a regulatory perspective, that is fine.*

**Deputy D. Wimberley of St. Mary:**

*Track them from B2B and make sure from the bottom it changes from regulated in Jersey to regulated in Antigua?*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*Yes, absolutely.*

**Deputy D. Wimberley of St. Mary:**

*Also, the risk has changed and your profile has changed and your ratio has changed and thank you very much, and all of that will be controlled from Jersey.*

**Mr. M. Setubal, Technical and Compliance Manager, Jersey Gambling Commission:**

*A lot of the operators nowadays use what is "distributed networks". I know it is a tech word, but it is basically exactly what it means. They will come to Jersey and they will put an entire set of computers over here, servers. They will do exactly the same in Guernsey, or Alderney. They will take licences on both sites and they will do what is called "load balancing" between the two sites. So that there is always 100 per cent resilience to their players and, as long as we know that there are servers here and servers there, we have oversight of both of them,*

*the same as Alderney will want. They will want oversight over both sites.*

**Deputy M. Higgins (Chairman):**

*Equally, you would not necessarily need all the band width if they can actually be able to operate elsewhere, even if they are just licensed here?*

**Mr. M. Setubal, Technical and Compliance Manager, Jersey Gambling Commission:**

*What happens if one of the servers goes down on the site?*

**Deputy M. Higgins (Chairman):**

*Yes, but they may also have servers elsewhere.*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*But in which case, why would they want a licence here?*

**Deputy M. Higgins (Chairman):**

*A good question. I am asking the question. Why?*

**Deputy D. Wimberley of St. Mary:**

*Because of the advantages of being a blue chip in Jersey.*

**Senator A. Maclean, Minister for Economic Development:**

*There would not be businesses wanting to come here, would there, if there was no advantage?'*

#### **4. Employment**

One of the arguments put forward for allowing e-gaming is the employment opportunities that will be created from the establishment of these enterprises. The Panel, whilst recognising that some employment will be created, questions the number of jobs that will be created and whether the required expertise is available in the Island, and whether it will have to be largely imported into the Island as has been the experience in Guernsey. The Chairman asked the Minister how many people he expected to be employed as a result of this legislation –

**'Senator A. Maclean, Minister for Economic Development:**

*Well, I think the first thing to say is there is existing capacity within the businesses locally that would benefit from an E gaming regime. I have already stated the fact that you have got existing e-commerce style business, data centres and so on, who would probably be able to absorb a certain amount of business within their existing resources. However, as it grows, it will give opportunities for them to increase their employment numbers.'*

**5. That Jersey can accrue the benefits that have already been accrued by other jurisdictions**

The Minister has cited figures relating to the impact of e-gaming on Alderney, Guernsey and Isle of Man to indicate the scale of business that Jersey could generate. The figures for Alderney and Guernsey were said to have come from a June 2010 KPMG report for the Alderney Gambling Control Commission. The Report indicated that the e-gaming industry's economic contribution in the Bailiwick had grown by over 500% in the previous 3 years, and shows that e-gaming contributed approximately £50 million in 2009 compared with £7.4 million in 2007. The Chairman asked the Minister to outline what he saw as being the main benefits of the e-gaming coming into the Island. The Minister replied –

***'Senator A. Maclean, Minister for Economic Development:***

*Well, it is not just what I see, it is what industry sees and it is what external experts see. I think you are referring to my comments in the States about a report produced by KPMG about the estimated value to the Guernsey economy in 2007, which was £7 million, and that was revised to £50 million in 2009. Obviously, the value to the economy is an overall. It is not just licence fees. I think it was the Deputy of St. Mary who did some mental arithmetic and worked out very rapidly that the number of licences are not going to equate to that amount of money, and he is quite right. However, the licence fees themselves largely cover the regulatory cost and some additional revenue on top. The significant benefits to the economy are leveraging the professional expertise that exists in the island in terms of banking, fiduciary, accounting and so on. For example, the investment and development of the telecommunications sector, the band width investment that we have seen driven in other jurisdictions to the significant benefit of those particular jurisdictions. Again, Jersey would seek to benefit from that as well. They are without doubt wide-ranging in terms of employment opportunities. Although it fits our profile of low footprint and high value, we see that as a very good diversification story for the island, with other jurisdictions as a benchmark of type of revenues that can be achieved. Isle of Man, for example, have seen employment growth in this sector of about 18 per cent. They have seen in 2008 there was £91 million put into the economy in terms of spend by the industry. That is spend by the E gaming and associated industries into their particular economy. So there are lots of indicators as to the value that this sector would bring to the island.'*

The Panel asked the Minister what local, original research had been undertaken to estimate the potential economic benefits to the Island. He informed the Panel that his team had spoken at length to industry professionals, but that the work undertaken had largely centred on studying the economic benefits that had accrued to other island jurisdictions, to provide the indication of the potential benefits to Jersey. Concerned at what appeared to be the Minister's reliance on narrow sources of external information, the Panel pressed the Minister on this, beginning with his use of the KPMG report data from Guernsey and Alderney –

**Deputy M. Higgins (Chairman):**

*You mentioned the KPMG report, which obviously you have been told that we have been seeking . . . Did you Commission that report?*

**Senator A. MacLean, Minister for Economic Development:**

*No, no, it was a Guernsey report*

**Deputy M. Higgins (Chairman):**

*Have you had sight of that report?*

**Senator A. MacLean, Minister for Economic Development:**

*No, we have just seen the reports of the outcomes of that report.*

**Deputy M. Higgins (Chairman):**

*It was a press report, was it not? A public relations press report?*

**Senator A. MacLean, Minister for Economic Development:**

*There has been a press report on it, yes.'*

Following up on the levels of local research that had been carried out, the Chairman asked –

*'What research have you actually conducted yourself into the economic benefits of the island? Have you commissioned any reports into the benefits of it?*

**Senator A. MacLean, Minister for Economic Development:**

*Specifically, locally, we have contacted and spoken at length to industry professionals.*

**Deputy M. Higgins (Chairman):**

*Did you commission any form of research into the benefits, the economic benefits to this island?*

**Senator A. MacLean, Minister for Economic Development:**

*What we have done is we have studied economic benefits that have accrued to other jurisdictions, island jurisdictions, which are clearly going to be indicative of the sort of potential results --*

**Deputy M. Higgins (Chairman):**

*Can I just question out that again. In the case of Alderney, the KPMG report you have not seen, none of us has seen, you are basing it on a newspaper report about what that report is supposed to contain*

**Mr. J. Lane, Chief Executive, Jersey Gambling Commission:**

*With respect, Chairman, not just that. They have quoted that report in the Alderney Gambling Control Commission's annual report and accounts. So they have referenced that data. It has been published by The Financial Times. It has been -*

**Deputy M. Higgins (Chairman):**

*Has it been verified?*



*I might say, by the way, just for your information, we have been talking to Guernsey Deputies, who equally are quite surprised at some of the figures that are bandied about and some of the statements that have been bandied about as well. So the point I am trying to make is, and I have asked the question, you have not done any independent research? We are basing it on data from elsewhere? Let us actually look at some of those -*

**Senator A. MacLean, Minister for Economic Development:**

*I can estimate very clearly the value to the economy if we do not pass this legislation.'*

The figures quoted by the Minister for Alderney, Guernsey and the Isle of Man and his estimates of potential economic benefits to the Island concerned the Panel for the following reasons –

- they were largely based on press reports or statements;
- they were largely based on evidence supplied by industry professionals whose firms had a direct interest in the development of the infrastructure and would benefit financially from the hosting of e-gaming facilities;
- the Minister was relying on figures which were largely unsubstantiated or verifiable;
- that no independent study or assessment of the figures or economic benefits that he had quoted had been undertaken; and
- that no local studies into the economic benefit of e-gaming to Jersey had been undertaken.

**Finding:**

**The case for the economic benefits of an e-gaming industry developing in Jersey is not as secure as it may at first appear, and has not been adequately substantiated, with no local, original or independent research undertaken.**

Comments: Draft Gambling (Remote Gambling Disaster Recovery) (Amendment) (Jersey) Regulations 201-

## Appendix 1

Remote Gambling Regs as would be amended by P199/2010  
- showing mark-up (NB automatically generated)

### PART 1 INTRODUCTORY PROVISIONS

#### 1 Interpretation

In these Regulations, unless the context otherwise requires –

“activating disaster” has the meaning assigned by Regulation 3;

“code of practice” means a code of practice approved under Article 6 of the Gambling Commission (Jersey) Law 2010;

“Commission” means the Jersey Gambling Commission established by the Gambling Commission (Jersey) Law 2010;

“compliance direction” means a compliance direction issued under Regulation 42;

“conduct”, in relation to remote gambling, and to premises or to a country or territory, has the meaning given by Regulation 2;

“controlling device” has the meaning given by Regulation 2;

“customer” has the meaning given by Regulation 2;

“disaster recovery operator’s licence” means a licence granted under Regulation 7(1)(b);

“drug trafficking” has the meaning assigned by the Drug Trafficking (Jersey) Law 1988;

“foreign authorization”, in respect of a person, means a licence, permit, registration, or other authority, that is in force and that is granted to the person by the relevant supervisory authority of a country or territory other than Jersey, under which authority remote gambling may lawfully be conducted by the person;

“foreign gambling corporation” in relation to a person to whom a disaster recovery operator’s licence has been granted, means the person who applied for the remote gambling operator’s licence under Regulation 5;

“general remote operator’s licence” means a licence granted under Regulation 7(1)(a);

“good practice” means practice that appears to the Commission to be desirable having regard to the guiding principles;

Deleted: (1)

Deleted: “drug trafficking” has the meaning assigned by the Drug Trafficking (Jersey) Law 1988; “electronic device” includes a computer server.

Deleted: remote gambling

Deleted: in accordance with Regulation 7(4)

Deleted: “gambling site” means –  
(a) an internet site;  
(b) an email address;  
(c) a television broadcasting site; and  
(d) any other device or location, including an electronic location, that is prescribed under paragraph (2).

“guiding principles” means the principles set out in Article 4 of the Gambling Commission (Jersey) Law 2010;

“holding company”, in relation to a person, has the same meaning as it has in Article 4 of the Banking Business (Jersey) Law 1991 and includes, in respect of a person to whom a disaster recovery operator’s licence has been granted, the foreign gambling corporation in relation to that person;

**Deleted:** in accordance with Regulation 7(4)

“home country or territory”, in relation to –

- (a) a Jersey person, means Jersey; or
- (b) a person to whom a disaster recovery operator’s licence has been granted, means the country or territory in which is situated the relevant supervisory authority that issued the foreign authorization in respect of the foreign gambling corporation in relation to the person;

**Deleted:** to whom a Jersey remote gambling licence has been granted

**Deleted:** remote gambling

**Deleted:** in accordance with Regulation 7(4)

“Jersey person” means a person who is –

- (a) a natural person who is ordinarily resident in Jersey;
- (b) a body incorporated in Jersey;
- (c) a partnership formed in Jersey under customary law, in which at least one of the partners falls within sub-paragraph (a) or (b); or
- (d) a partnership registered under an enactment of Jersey;

**Deleted:** “internet site” means a site on the internet that is uniquely identified by a name in accordance with the W3C World Wide Web Consortium RFC3986, or another body in substitution for that body.¶

“Jersey remote gambling licence” means a licence that is in force, that is granted under the Law (otherwise than under these Regulations) and that authorizes a person to conduct remote gambling.¶

“Jersey resident” means a person who is ordinarily resident in Jersey;

“Law” means the Gambling (Jersey) Law 1964;

“law enforcement agency” means a person, or a body of persons, authorized under a law of Jersey, or of another country or territory, for the purposes of enforcing a law of Jersey or of the country or territory, and includes a relevant supervisory authority;

“money laundering” has the meaning assigned by Regulation 2 of the Community Provisions (Wire Transfers) (Jersey) Regulations 2007;

**Deleted:** “licence” means a licence, granted under these Regulations, that is in force.¶

“published” means published in a manner likely to bring it to the attention of those affected;

“relevant supervisory authority”, in relation to a person, means a person or body who or which, under a law of a country or territory, may issue a foreign authorization to the person;

“remote gambling” has the meaning given by Regulation 2;

**Deleted:** means any betting, gaming, wagering or entering into a lottery, which takes place

“remote gambling facility provider’s licence” means a licence, granted under Regulation 20, that is in force;

**Deleted:** way of an electronic communication at or from a gambling site

“remote gambling operator’s licence” means a general remote operator’s licence, or a disaster recovery operator’s licence;

**Deleted:** , granted under Regulation 7, that is in force;

“remote site” has the meaning given by Regulation 2;

“subsidiary company”, in relation to a person, has the same meaning as it has in Article 4 of the Banking Business (Jersey) Law 1991;

“terrorist financing” has the meaning assigned by Regulation 3 of the Community Provisions (Wire Transfers) (Jersey) Regulations 2007.

## 2 Meaning of “remote gambling” and related expressions

- (1) Paragraphs (2) to (7) apply for the purpose of construing references in these Regulations to remote gambling and to related expressions used in those paragraphs.
- (2) Gambling is remote if it is effected by means of electronic communication through a remote site.
- (3) A remote site is –
- (a) a website; or
  - (b) any other remote site designated under paragraph (10)(b).
- (4) A person (referred to in this paragraph as an “operator”) conducts remote gambling (or remote gambling operations) if –
- (a) another person gambles remotely otherwise than in the course of a business; and
  - (b) the operator, in the course of a business, provides to that other person a service consisting wholly or mainly of either or both of –
    - (i) gambling remotely with that other person, and
    - (ii) facilitating that other person’s remote gambling.
- (5) For the purpose of paragraph (4)(b)(ii), a person facilitates gambling if –
- (a) the person organizes or in any way takes part in that gambling; and
  - (b) by doing so the person –
    - (i) commits an offence under Article 2(2) of the Law, or
    - (ii) would commit that offence but for the gambling being made lawful by these Regulations, or being outside the territorial scope of the offence.
- (6) A person is a customer of another person if –
- (a) the person gambles remotely otherwise than in the course of a business; and
  - (b) the other person conducts the remote gambling by providing a service to the person.
- (7) A person who conducts remote gambling does so from premises, or from a country or territory if –
- (a) there is on those premises, or in that country or territory, a controlling device operated by or on behalf of the person in respect of the remote gambling; or
  - (b) the person –
    - (i) provides from those premises, or from that country or territory, any service by virtue of which the person conducts the remote gambling, or
    - (ii) is a corporate body that has a registered office at those premises, or is incorporated under the law of that country or territory.
- (8) A controlling device is a computer server, or other electronic device, that –
- (a) is operated –
    - (i) by a person conducting remote gambling, or

**Deleted:** (2) . The Minister may, by Order, prescribe –  
(a) a device; or  
(b) a location, which may be an electronic location and may be identifiable only by an electronic designation.

**Deleted:** be a gambling site

**Deleted:** s

**Deleted:** ¶  
**2 . Meaning of “conducts remote gambling”¶**  
(1) In these Regulations, a person conducts remote gambling if –  
(a) the person, or a foreign gambling corporation in relation

**Deleted:** the person, offers prizes, at a

**Deleted:** site, that may induce, or are intended

**Deleted:** induce, another person to provide, directly or indirectly, a consideration to engage

**Deleted:** remote gambling with the person; and

**Deleted:** (b) the person operates any electronic device connected to that gambling site, by means of which, in whole or in part, the remote gambling may be conducted.¶

(2) In these Regulations, a person conducts remote gambling from Jersey if one or more of the electronic devices by means of which, directly or indirectly, the remote gambling is conducted by the person in accordance with paragraph (1) are situated in Jersey.¶

**Deleted:** person who holds a

**Deleted:** gambling facility provider’s licence and who provides, in Jersey, premises –  
(a) that are specified on a remote gambling operator’s licence; and  
(b) on which is situated an electronic device by means of which remote gambling

**Deleted:** conducted.

**Deleted:** shall not be taken to offer prizes or conduct remote gambling by reason only of operating that device, in relation to that data, on behalf of the holder

- (ii) on behalf of such a person, by a person other than a customer of that person; and
- (b) controls, wholly or partly –
  - (i) the outcome of the remote gambling, or
  - (ii) the operation of a remote site, through which the remote gambling is conducted.
- (9) For the purposes of paragraphs (4) to (8) it is irrelevant whether the remote gambling is also conducted by any other person, from any other premises, country or territory, or through any other remote site or controlling device.
- (10) The Minister for Economic Development may, by Order –
  - (a) amend paragraph (3)(a);
  - (b) designate any interactive site (whether virtual or otherwise), television channel or other means of communication as a remote site for the purpose of paragraph (3)(b).
- (11) In relation to any form of gambling made lawful by any terrestrial Regulations, being Regulations under the Law other than these Regulations –
  - (a) nothing in the terrestrial Regulations is to be construed as permitting the use of a remote site for gambling under those Regulations; and
  - (b) nothing in these Regulations is to be construed as limiting any right that may be granted under the terrestrial Regulations to use any electronic communication, otherwise than through a remote site, for gambling under those Regulations.

Deleted: operator's licence.

### 3 Meaning of “activating disaster”

- (1) In these Regulations, an activating disaster, in relation to a remote gambling operator's licence, means –
  - (a) major disruption to the conduct of remote gambling by the holder of the licence or a foreign gambling corporation in relation to the holder of the licence, caused by damage, whether by humans or by natural forces, to –
    - (i) the wireless, satellite, telecommunication, electronic or electrical systems, or
    - (ii) the computer servers, hardware or software, by means of which remote gambling may be conducted;
  - (b) an event that renders inaccessible to customers a remote site through which those customers gamble remotely, in such a way that customers are unable to access a service provided by the holder of the licence in conducting remote gambling; and
  - (c) any natural or man-made disaster that affects or may affect any of the systems or objects referred to in sub-paragraph (a), which is of a sufficient scale to cause actual damage to those objects or that renders the objects unable to be accessed or used by the employees or agents of the holder of the licence, or of the foreign gambling corporation in relation to the holder of the licence, for the purposes of conducting remote gambling.
- (2) For the purposes of paragraph (1), a major disruption, event, or man-made disaster shall not constitute an activating disaster if it has been intentionally

Deleted: the gambling

Deleted: from

Deleted: the services may be accessed by players,

Deleted: be accessed by players

caused for the purpose of enabling activities under a remote gambling operator's licence to be activated.

## PART 2

### REMOTE GAMBLING OPERATOR'S LICENCES

#### *Grant of remote gambling operator's licences*

#### 4 Remote gambling under licence lawful

- (1) Remote gambling shall be lawful if **at least one person conducts it from Jersey and each person who conducts it from Jersey does so –**
- (a) under and in accordance with a remote gambling operator's licence granted to the person; and
  - (b) **if that licence is a disaster recovery operator's licence**, at any time during the period beginning from the day on which an activating disaster in relation to the licence occurs until the end of the period specified by the person in a notice under Regulation 34(5)(b) or of the period extended by the **Commission** by notice to the person under Regulation 37.
- (2) A person may, whether as principal or as a servant or agent of any other person –
- (a) conduct business in the course of which a gambling transaction is negotiated or entered into with, or on behalf of, a person (whether or not present in Jersey), in the course of conducting remote gambling that is lawful under paragraph (1); and
  - (b) permit a person (whether or not present in Jersey), to participate in a form of gambling lawfully conducted, organized or promoted by that person or that other person, as the case may be, in accordance with these Regulations.

**Deleted:** is conducted by a person

**Deleted:** Minister

#### 5 Application for remote gambling operator's licence

- (1) **An application may be made to the Commission –**
- (a) **by a Jersey person, for a general remote operator's licence; or**
  - (b) **by a body incorporated outside Jersey, for a disaster recovery operator's licence.**
- (1A) A body applying for a disaster recovery operator's licence shall nominate, as the proposed holder of the licence, a company that –
- (a) **has been incorporated under the Companies (Jersey) Law 1991 for the purpose of conducting remote gambling under the licence; and**
  - (b) **is a subsidiary company that is wholly owned by the body making the application.**
- (1B) A body may apply for a disaster recovery operator's licence before the incorporation of a subsidiary to be nominated under paragraph (1A), if the application includes proposals for the subsidiary, in which case the Commission may issue a provisional determination that –
- (a) **is based on the applicant's proposals for the subsidiary; and**

**Deleted:** (1) A person may apply to the Minister for a remote gambling operator's licence.

- (b) is to be reviewed after the applicant has complied with paragraph (1A), before the Commission determines the application under Regulation 7.
- (2) An application under paragraph (1) shall be in the form published by the Commission for the type of operator's licence for which the application is made.
- (3) An application under paragraph (1) for a remote gambling operator's licence by a person shall be accompanied by either –
- proof that the person is a Jersey person, if the application is for a general remote operator's licence; or
  - proof that there is a foreign authorization in respect of the person, if the application is for a disaster recovery operator's licence.
- (4) An application by a person for a disaster recovery operator's licence shall be accompanied by –
- a statement whether, to the best of the person's knowledge and belief, the person, or any holding company or subsidiary company in relation to the person, is being investigated by a law enforcement agency of any other country or territory, and if so, the reasons why he, she or it is being investigated; and
  - details of all laws of the person's home country or territory that relate to data protection and to the prohibition or regulation of gambling, money laundering, drug trafficking and terrorist financing.
- (5) The Commission may –
- request a person who has made an application under paragraph (1) to provide to the Commission further information or documents in relation to the application; and
  - refuse to grant a remote gambling operator's licence to the person unless and until the information or documents are provided.

## 6 Fees for application and further investigation

- (1) An application under Regulation 5 shall be accompanied by a first stage application fee of £5,000.
- (2) The Commission may, by notice in writing to a person who has made an application under Regulation 5, require the person to pay a further investigation fee of £5,000.
- (3) The Commission may only issue a notice to a person under paragraph (2) if the Commission is of the opinion that the amount of the first stage fee paid by the person will not cover the costs of making all the investigations necessary to determine whether to grant a remote gambling licence in accordance with the application by the person.
- (4) The Commission may issue as many further notices to a person under paragraph (2) as the Commission thinks necessary to cover the costs referred to in paragraph (3) in relation to the application by the person.
- (5) If the application is for a licence to take effect on the expiry under Regulation 7(2)(b) of another licence, the Commission –
- shall take account of its duty and power under Regulation 8(3);

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(1) . The Minister may, after receiving an application under Regulation

**Deleted:** from a person, grant, or, by notice in writing to the person, refuse to grant, a remote gambling operator's licence to the person.<sup>¶</sup>  
(2)

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**Deleted:** under Regulation 5 is not –<sup>¶</sup>  
(a) . a natural person who is a Jersey resident; or<sup>¶</sup>

**Deleted:** . a body corporate that is incorporated under the Companies (Jersey) Law 1991.

**Deleted:** the Minister may determine that he or she shall, if the applicant nominates a body corporate that complies with paragraph (3) and if he or she is satisfied that the requirements of Regulation 8 are or shall be complied with, grant the licence to that body corporate.<sup>¶</sup>  
(3) A body corporate complies with this paragraph if –<sup>¶</sup>

(a) it is incorporated under the Companies (Jersey) Law 1991 for the purposes of conducting remote gambling operations under a

- (b) shall reduce the first stage fee if it considers that the full amount is not needed to cover the costs referred to in paragraph (3), whether because any investigation does not need to be repeated or for any other reason; and
- (c) shall not issue a notice under paragraph (2) unless it considers that there has been a significant change, since the grant of the expiring licence, requiring further investigation.

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**7 Grant or refusal of remote gambling operator's licence**

- (1) The Commission may, after considering an application under Regulation 5 from a person –
  - (a) grant a general remote operator's licence to the person;
  - (b) grant a disaster recovery operator's licence to the company nominated by the person under Regulation 5(1A); or
  - (c) by notice in writing to the person, setting out reasons, refuse to grant a remote gambling operator's licence.
- (2) A licence granted under this Regulation –
  - (a) shall take effect from a date, no earlier than the date of its grant, specified in the licence; and
  - (b) shall expire 3 years after that date.

**Deleted:** (b) it is a subsidiary company that is wholly owned by the person who has made the application for the licence.¶  
 (4) If the Minister has made a determination under paragraph (2) in relation to a body corporate that complies with paragraph (3) and the Minister is satisfied that the requirements of Regulation 8 are or shall be complied with, the Minister shall grant a remote gambling operator's licence to that body corporate.¶

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**8 Circumstances in which Commission may grant remote gambling operator's licence**

- (1) The Commission may only grant a remote gambling operator's licence to a person under Regulation 7 if the Commission is satisfied that –
  - (a) the person, and the foreign gambling corporation, if any, in relation to the person, is a fit and proper person to conduct remote gambling;
  - (b) the person shall ensure that remote gambling is conducted fairly and that appropriate protection shall be provided by the person to customers of the person;
  - (c) the person shall establish and maintain, during any period in which remote gambling is conducted from the premises specified in the licence, a system for monitoring the conduct of remote gambling from the premises;
  - (d) the grant of the licence to the person shall not be harmful to Jersey's reputation as a financial centre;
  - (e) either the person is a Jersey person, or there is a foreign authorization in respect of the foreign gambling corporation in relation to the person, being an authorization that has not been suspended;
  - (ea) where the application is for a disaster recovery operator's licence, the remote gambling proposed to be conducted from Jersey under the licence shall be limited to periods that do not (by their length, frequency, pattern or otherwise) indicate that the proposed holder can reasonably be expected, having regard to the policy published under paragraph (1C), to apply instead for a general remote operator's licence;

**Deleted:** (f) where the Minister has sent a notice in writing to the person under Regulation 6(2), the person has, within 30 days of the Minister sending the notice, paid the further investigation fee; and¶  
 (g) a licence grant fee of £5,000 has been paid in relation to the application.¶

(2) Without limiting the matters that the Minister may take into account in determining whether to grant a remote gambling operator's licence to a person under Regulation 7, the Minister shall take into account –¶  
 (a) the financial standing of –¶  
 (i) the person,¶  
 (ii) if the person is a company, any director of the company, and¶  
 (iii) any holding company, or subsidiary company, in respect of the person,¶  
 including the financial stability of, and the adequacy of the capital base of, the person, director, holding company and subsidiary company.¶



- (f) where the Commission has sent a notice in writing to the person under Regulation 6(2), the person has, within 30 days of the Commission sending the notice, paid the further investigation fee.
- (1A) The Commission shall not grant a remote gambling operator's licence unless it is satisfied that an independent person approved by the Commission has tested each item of equipment, including software, that may affect –
- the outcome of remote gambling under the licence; or
  - whether the person will conduct the gambling in accordance with the guiding principles and in compliance with any relevant code of practice.
- (1B) Paragraph (1A) does not apply to any item in respect of which the Commission is satisfied that such testing is not necessary, whether in general or in the circumstances of the application.
- (1C) The Commission shall publish a statement of the Commission's policy as to the circumstances (including as to testing) in which, and any forms of gambling for which, it generally will, or will not, grant –
- a disaster recovery operator's licence; or
  - a general remote operator's licence.
- (2) Without limiting the matters that the Commission may take into account in determining whether to grant a remote gambling operator's licence to a person under Regulation 7, the Commission shall take into account –
- the financial standing, including the financial stability and the adequacy of the capital base, of the person and of any foreign gambling corporation in relation to the person;
  - whether the person, and any ~~foreign gambling corporation in relation to the~~ person, conducts remote gambling operations and associated operations in a fair manner;
  - the adequacy of the ~~person's~~ systems ~~(including equipment and software), and of any testing carried out on those systems,~~ that are in place in relation to remote gambling to ensure that the ~~person conducts the gambling in accordance with the guiding principles and in compliance with any relevant code of practice,~~ including but not limited to whether the systems are adequate to ensure that –
    - each ~~customer's~~ funds are separately recorded from each other ~~customer's~~ funds and from the funds of the person,
    - ~~customers'~~ winnings are paid out accurately and promptly,
    - accurate recording of deposits and wagers are kept,
    - the data provided by ~~customers~~ is protected from use by the ~~person~~ or use by other persons (whether or not under the authority of the person) for purposes that are not authorized by the ~~customer~~ or that are not authorized under the Data Protection (Jersey) Law 2005,
    - persons may, at their own request or otherwise, be excluded from ~~or limited as to~~ gambling ~~remotely as customers of the person,~~
    - any funds of a ~~customer~~ that are held by the person and that have not been used by the ~~customer~~ are kept separately from the funds of the person, may not be used by the person, any creditors of the person or any holding company or subsidiary company in relation to the person, and are refundable to the ~~customer~~ at the ~~customer's~~ request,

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- (vii) the requirements, under any laws of Jersey, or of the person's home country or territory, for measures to be taken to ensure data protection or to prevent money laundering, drug trafficking or terrorist financing are, or are likely to be, fulfilled;
- (d) whether the person, or any **foreign gambling corporation in relation to the person**, has been subject to adverse findings by a law enforcement agency situated in another country or territory or has been found guilty of an offence against the laws of Jersey or that country or territory relating to the regulation of gambling, data protection, money laundering, drug trafficking or terrorist financing;
- (da) whether there is any other person in relation to whom the Commission should enquire into any of the matters referred to in sub-paragraphs (a), (b) or (d) because that person appears likely to be able to influence, whether as an employee, director, officer, member, partner, holding company, subsidiary company, relative or otherwise –
  - (i) the behaviour of the holder of the licence, or of a foreign gambling corporation in relation to that holder, or
  - (ii) the outcome of remote gambling conducted under the licence;
- (e) if there is a foreign gambling corporation in relation to the person, the extent to which the laws of the person's home country or territory are adequate to ensure that the foreign gambling corporation is regulated in its remote gambling operations in that country or territory in a manner that ensures that the reputation of Jersey as a financial centre would not be harmed by authorizing the person to conduct remote gambling operations from Jersey;
- (f) whether the imposition of conditions by the **Commission** may ensure that the purposes of any of sub-paragraphs (a) to (e) may be fulfilled; **and**
- (g) **its policy published under paragraph (1C).**
- (3) **If the application is for a licence to take effect on the expiry under Regulation 7(2)(b) of another licence, the Commission –**
  - (a) **shall consider whether it holds any relevant information previously obtained by it in connection with the expiring licence; and**
  - (b) **may rely on that information unless it has any reason to believe that the information may not still be current.**

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## 9 Form of remote gambling operator's licence

- (1) A remote gambling operator's licence shall be in the form approved by the **Commission**.
- (2) A remote gambling operator's licence shall specify –
  - (a) **each remote site through which remote gambling may be conducted under the licence, including a unique identifier of the site and any name given to the site;**
  - (b) the address of the premises **in Jersey** from which remote gambling is authorized to be conducted under the licence;
  - (c) the name of the person who holds a remote gambling facility provider's licence in relation to **any premises in Jersey on which a controlling device may be operated under the licence; and**

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(3) A remote gambling operator's licence that is issued to

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- (d) the conditions imposed on the licence by and under these Regulations.
- (2A) Paragraph (2)(c) applies irrespective of whether the holder of the remote gambling operator's licence is the same person as the holder of the remote gambling facility provider's licence or a different person.
- (3) A disaster recovery operator's licence shall specify the name of the foreign gambling corporation, in relation to the person.

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## 10 Annual fees

- (1) In this Regulation (and in Regulation 21A) –
  - (a) “first year of effect”, in relation to a licence, means a period of 12 months after the licence takes effect;
  - (b) “second year of effect” and “third year of effect”, in relation to a licence, mean a period of 12 months after the first and second anniversaries respectively of the date on which the licence takes effect, if the licence continues in effect (irrespective of any suspension) during all or any part of that period.
- (2) The holder of a remote gambling operator's licence shall pay to the Commission the relevant annual fee in relation to the licence within 28 days after the start of each of the first, second and third years of effect of that licence.
- (3) At the end of a 28 day period referred to in paragraph (2), if the holder of a licence has not paid the relevant annual fee in relation to that year of effect, that licence is revoked by virtue of this paragraph.
- (4) The revocation of a licence under paragraph (3) does not extinguish the liability to pay the fee.
- (5) The relevant annual fee for a disaster recovery operator's licence is £5,000.
- (6) The relevant annual fee for a general remote operator's licence is –
  - (a) the fee notified by the Commission to the licence holder no later than 14 days before the fee is due; or
  - (b) if the Commission fails to give notification by that date, £35,000.
- (7) The fee notified by the Commission shall be the amount referred to in paragraph (8) by reference to –
  - (a) the Commission's calculation of the remote gambling yield;
  - (b) if the licence holder has failed to provide evidence of its remote gambling yield to the satisfaction of the Commission, the Commission's estimate of the remote gambling yield; or
  - (c) if paragraph (11) applies, a remote gambling yield treated –
    - (i) as exceeding £6,500,000, or
    - (ii) as being of such lower amount as the Commission may consider reasonable in the circumstances.
- (8) The amount for the purpose of paragraph (7) in relation to a year of effect of a licence is –
  - (a) £35,000, if there was no remote gambling yield in the relevant period, or if that yield was less than £1,000,000;
  - (b) £70,000, if the remote gambling yield in the relevant period equalled or exceeded £1,000,000 but was less than £6,500,000; or

Deleted: (1) A person to whom a remote gambling operator's licence is granted shall, within 30 days of the grant of the licence, pay to the Minister an annual fee of £5,000 in relation to the licence.¶  
 (2) A person to whom a remote gambling operator's licence is granted shall pay to the Minister the annual fee in relation to the licence within 30 days after the end of each 12 month period for which the licence is in force.¶  
 (3) If the annual fee is not paid by the holder of a remote gambling operator's licence within the period specified in paragraph (1) or (2) the licence shall, if it is still in force, be revoked by virtue of this paragraph.

- (c) £140,000, if the remote gambling yield in the relevant period equalled or exceeded £6,500,000.
- (9) The relevant period is –
- (a) in relation to the fee for the first year of effect, the 12 month period before the start of that year;
- (a) in relation to the fee for the second year of effect, the first year of effect; and
- (a) in relation to the fee for the third year of effect, the second year of effect.
- (10) The remote gambling yield in a relevant period is the excess, if any, of the sums received in that period from customers, over the sums paid in that period to customers, by the holder of the licence as a result of conducting remote gambling under any general remote operator's licence (whether or not the licence in respect of which the fee is due).
- (11) This paragraph applies if –
- (a) the Commission notifies a licence holder that it believes that the main purpose, or one of the main purposes, of a transaction is the reduction of the liability of that licence holder to pay an annual fee; and
- (b) the licence holder fails within a reasonable time of that notification to satisfy the Commission either –
- (i) that the purpose of reducing liability to an annual fee was not the main purpose or one of the main purposes for which the transaction was effected, or
- (ii) that the transaction was a bona fide commercial transaction and was not designed for the purpose of reducing liability to an annual fee.
- (12) In paragraph (11) a reference to a transaction includes a combination or series of transactions.

*Conditions of remote gambling operator's licence*

**11 Operator's licence to be subject to conditions**

- (1) A remote gambling operator's licence shall be subject to –
- (a) the conditions specified in Regulations 12, ~~to 15;~~ and
- (b) the supplementary conditions, ~~imposed under Regulation 11A.~~
- (2) A ~~disaster recovery~~ operator's licence shall ~~in addition~~ be subject ~~to~~ the conditions, if any, specified on the foreign authorization in respect of the foreign gambling corporation in relation to the person, ~~holding the licence.~~
- (3) ~~On granting a disaster recovery operator's licence, the Commission may substitute another condition for, or disapply, a condition that would, but for this paragraph and paragraph (5), be imposed by paragraph (2).~~
- (4) The Commission shall not substitute or disapply a condition under paragraph (3) unless it considers that it is reasonable to do so in order to –
- (a) make appropriate provision for a difference between Jersey and the home country or territory of the foreign gambling corporation;
- (b) avoid an inconsistency referred to in paragraph (5); or

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 (a) the conditions specified in Regulations 12 to 17;<sup>¶</sup>  
 (b) the conditions, if any, specified under paragraph (3); and<sup>¶</sup>  
 (c).

**Deleted:** , to the extent that they are not inconsistent with the Law, these Regulations or the conditions referred to in sub-paragraphs (a) and (b).

**Deleted:** (3) The Minister may specify on a remote gambling operator's the conditions to which the licence shall, in addition to the conditions referred to in paragraph (1)(a) or (c) or (2)(a) or (c), as the case may be, be subject.<sup>¶</sup>  
 (4) The Minister may, in granting a licence, impose a condition that varies a condition that is specified on a licence in accordance with paragraph (1)(c) or (2)(c).<sup>¶</sup>  
 (5) The Minister shall not impose a condition on a licence under paragraph (3), or impose a condition on a licence under paragraph (4) that varies a condition on a licence, if the condition, or the condition as so varied, would be inconsistent with a provision of the Law or

- (c) promote observance of the guiding principles or good practice.
- (5) Paragraph (2) does not apply to the extent that a condition specified on the foreign authorization is inconsistent with –
  - (a) the Law;
  - (b) these Regulations; or
  - (c) a condition specified in any of Regulations 12 to 15.
- (6) The Commission shall not substitute an amended condition under paragraph (3), or impose a supplementary condition under Regulation 11A, if the condition would be inconsistent with –
  - (a) the Law;
  - (b) these Regulations; or
  - (c) a condition specified in any of Regulations 12 to 15.

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**Deleted: 12 . Condition of licence – use of premises provided by facilities provider**  
It shall be a condition of a remote gambling operator's licence that remote gambling conducted under the licence shall only take place in Jersey from premises specified in

**Deleted:** licence, which are premises in relation to which a person specified on the licence holds a remote gambling facility provider's licence.

#### 11A Supplementary conditions

- (1) On granting a remote gambling operator's licence, the Commission shall impose supplementary conditions to which the licence shall be subject.
- (2) The Commission shall determine and publish standard supplementary conditions.
- (3) In imposing supplementary conditions, and in determining standard supplementary conditions, the Commission shall seek to promote observance of the guiding principles, good practice and these Regulations.
- (4) Supplementary conditions, whether standard or otherwise –
  - (a) may apply to all forms of remote gambling or to all licences or may vary by form of remote gambling or licence or other circumstance; and
  - (b) may be framed by reference to a code of practice, and may require compliance with a provision of such a code.
- (5) The Commission shall impose on a licence the standard supplementary conditions applicable to that licence, unless the Commission considers there is an exceptional reason not to do so for a particular licence.
- (6) The Commission may impose on a licence supplementary conditions that are not standard, whether or not it also imposes standard supplementary conditions.
- (7) The supplementary conditions imposed on a licence –
  - (a) shall include conditions (whether standard or otherwise) covering the matters set out in paragraph (8); and
  - (b) may include –
    - (i) conditions (whether standard or otherwise) covering any or all of the matters set out in paragraph (9), and
    - (ii) any other condition (whether standard or otherwise) that the Commission considers reasonable to ensure observance of the guiding principles, good practice and these Regulations.
- (8) The matters that supplementary conditions shall cover are –
  - (a) the systems to be used to make information available to customers about –

- (i) the availability, under Article 9 of the Gambling Commission (Jersey) Law 2010, of assistance with problems related to excessive gambling,
    - (ii) what may be lost or won in relation to the remote gambling and the chances of winning or losing,
    - (iii) the identity of the licence holder, and
    - (iv) the regulation of the remote gambling by the Commission;
  - (b) the systems to be used to carry out checks on the age and vulnerability of customers;
  - (c) the manner in which records, accounts and annual statements are to be made, retained, verified and sent to the Commission, including –
    - (i) for a disaster recovery operator's licence, any records, containing information in addition to that notified under Regulations 34 and 39, to enable the Commission to monitor gambling under the licence for the purpose of Regulation 32(2)(ba),
    - (ii) for a general remote operator's licence, time limits to allow for timely calculation and demand of the relevant annual fee under Regulation 10;
  - (d) the nature and use of each remote site specified in the licence under Regulation 9, and of any controlling device in respect of the remote gambling conducted under the licence (including any such device outside Jersey);
  - (e) whether any connection is permitted between a site or device mentioned in sub-paragraph (d) and –
    - (i) any remote site through which remote gambling is conducted by another person, or
    - (ii) any controlling device operated by or on behalf of another person conducting remote gambling;
  - (f) the nature and use of any equipment (other than a controlling device), including software, that is capable of affecting –
    - (i) the outcome of remote gambling under the licence, or
    - (ii) whether that gambling will be conducted in accordance with the guiding principles and in compliance with any relevant code of practice;
  - (g) the requirements as to testing and notification before any changes may be made to that equipment or to any controlling device;
  - (h) the systems to be used to ensure that persons employed by the licence holder in particular capacities are suitable, including the checks to be carried out on the suitability of those persons; and
  - (i) the maintenance of the adequacy of the systems referred to in sub-paragraphs (a), (b) and (h) and in Regulation 8(2)(c).
- (9) Without prejudice to the generality of the Commission's power to impose any supplementary condition, the matters that supplementary conditions may cover include –
- (a) the amounts payable by customers in relation to the remote gambling and the manner in which they are paid;

- (b) the amounts to be paid to customers in relation to the remote gambling, and any other items or advantages to be given as winnings, and the manner in which they are delivered;
- (c) the display of information intended to ensure that customers are not misled as to any issue relevant to the fairness of the remote gambling, and the form, location, manner and occasions of the display;
- (d) the persons who may supply, install or maintain equipment, including software, that may be used in connection with the remote gambling, including any requirements as to approval, certification, qualification or training of those persons;
- (e) the training of staff in respect of the requirements of the guiding principles, good practice and these Regulations; and
- (f) the provision and maintenance of a current address at which the licence holder agrees to accept service of any documents under the Law or these Regulations, and which shall be taken to be that person's proper address for the purpose of Article 7 of the Interpretation (Jersey) Law 1954.

12 Condition of licence – use of specified premises

- (1) It shall be a condition of a remote gambling operator's licence that remote gambling shall not be conducted from any premises in Jersey other than premises specified in the licence under Regulation 9(2)(b).
- (2) It shall be a condition of a remote gambling operator's licence that no controlling device in Jersey shall be operated in respect of the remote gambling conducted under the licence, unless the device is on premises in relation to which a person, named on the licence under Regulation 9(2)(c), holds a current remote gambling facility provider's licence.

13 Condition of licence – access to and provision of information

- (1) It shall be a condition of a remote gambling operator's licence that a holder of the licence shall, at all reasonable times, at the request of the ~~Commission~~, provide the ~~Commission~~ with the information that the ~~Commission~~ may reasonably require in relation to –
  - (a) the control, by its owners, executive officers and directors, of any company constituting the person, or any holding company, or subsidiary company, in relation to the person;
  - (b) the conduct of remote gambling operations, from Jersey or from any other country or territory, by the person or any foreign gambling corporation, or subsidiary company, in relation to the person;
  - (c) the conduct of any other businesses also owned by the person or any holding corporation, or subsidiary company, in relation to the person; and
  - (d) the regulation, by the relevant supervisory authorities of the person's home country or territory, of remote gambling conducted by any foreign gambling corporation in relation to the person.
- (2) It shall be a condition of a remote gambling operator's licence that the holder of the licence shall permit the ~~Commission~~ –
  - (a) to inspect, at any time, the premises specified in the licence;

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- (b) while on the premises in accordance with sub-paragraph (a), to inspect and make, free of charge, records of any documents situated on the premises, and to open (including by force, if necessary) any container on the premises and to search its contents; and
- (c) to access any electronic information stored on an electronic device, or by any other means, on the premises and to make, and take away, copies of such information.

#### 14 Condition of licence – regulatory compliance

It shall be a condition of a remote gambling operator's licence that the holder of the licence and his or her employees or agents shall, in conducting remote gambling from Jersey and associated operations, comply with the laws of Jersey relating to money laundering, drug trafficking, data protection and terrorist financing.

#### 15 Condition of licence – notifications

- (1) It shall be a condition of a remote gambling operator's licence that a holder of the licence which is a company shall notify the ~~Commission~~ of –

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- (a) any change to the structure of the company;
- (b) any significant changes to the class of the shares in the company or the rights that attach to them;
- (c) the identity of each shareholder in the company who holds 5% or more of the shares in the company;
- (d) any change to the shareholdings in the company, which changes relate to 5% or more of the issued share capital of the company; and
- (e) any appointments, dismissals, resignations or deaths of directors of the holding company.

- (2) It shall be a condition of a remote gambling operator's licence that a holder of the licence which is a company shall notify the ~~Commission~~ of –

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- (a) any change to the company structure of any holding company, or subsidiary company, in relation to the person;
- (b) any significant changes to the class of the shares in the holding company, or subsidiary company, or the rights that attach to them;
- (c) the identity of each shareholder in the holding company who holds 5% or more of the shares in the holding company or subsidiary company;
- (d) any change to the shareholdings, which changes relate to 5% or more of the issued share capital of the holding company or subsidiary company; and
- (e) any appointments, dismissals, resignations or deaths of directors of the holding company or subsidiary company.

- (3) It shall be a condition of a remote gambling operator's licence that the holder of the licence shall, if there was, when the licence was granted, a foreign authorization in respect of a foreign gambling corporation in relation to the person, notify the ~~Commission~~ of –

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- (a) any investigation, being conducted by any law enforcement agency situated in another country or territory, into the conduct by the person, or any foreign gambling corporation in relation to the person, of remote gambling operations from the country or territory; and



- (b) any changes to the laws of the person's home country or territory that relate to the conduct of remote gambling operations from the person's home country or territory.

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### PART 3

#### REMOTE GAMBLING FACILITY PROVIDER'S LICENCES

##### *Grant of remote gambling facility provider's licences*

#### 18 Application for remote gambling facility provider's licence

- (1) A ~~Jersey~~ person may apply to the ~~Commission~~ for a remote gambling facility provider's licence.
- (2) An application under paragraph (1) shall be in the form ~~published by the Commission~~.
- (3) An application under paragraph (1) for a remote gambling facility provider's licence shall be accompanied by –
  - (a) proof that the person is entitled to occupy the premises specified in the application as the ~~premises~~ from which, under the licence, remote gambling may be conducted by the holder of a remote gambling operator's licence; and
  - (b) proof that the person shall have access to appropriate technology and telecommunications infrastructure.
- (4) The ~~Commission~~ may –
  - (a) request a person who has made an application under paragraph (1) to provide to the ~~Commission~~ further information or documents in relation to the application; and
  - (b) refuse to grant a remote gambling facility provider's licence to the person unless and until the information or documents are provided.

#### 19 Fees for application and further investigation

- (1) An application under Regulation 18 shall be accompanied by a first stage application fee of £5,000.
- (2) The ~~Commission~~ may, by notice in writing to a person who has made an application under Regulation 18, require the person to pay a further investigation fee of £5,000.
- (3) The ~~Commission~~ may only issue a notice to a person under paragraph (2) if the ~~Commission~~ is of the opinion that the first stage application fee paid by the person will not cover the costs of making all the investigations necessary to determine whether to grant a remote gambling facility provider's licence in accordance with the application by the person.

**Deleted:** Condition of licence – no hosting of source codes etc.

**Deleted:** (1) It shall be a condition of a remote gambling operator's licence that the holder of the licence shall not –  
 (a) in Jersey, store or host, on any electronic device by means of which remote gambling is conducted by the holder of the licence; or  
 (b) permit any person in Jersey to store, or host, on any electronic device by means of which remote gambling is conducted by the holder of the licence.  
 any source code that generates, or affects, the results of any remote gambling conducted by the holder of the licence.  
 (2) In paragraph (1), "source code" includes, but is not restricted to including, any modules, functions, algorithms, sub-routines or any third-party source code.

**Deleted:** Condition of licence – gambling sites

**Deleted:** (1) It shall be a condition of a remote gambling operator's licence that the gambling site from which a player may engage in remote gambling with the holder of the licence specifies that any disaster recovery operation in relation to the remote gambling shall be conducted from Jersey.  
 (2) It shall be a condition of a remote gambling operator's licence that remote gambling shall only be conducted under the licence from the unique identifier of the gambling site specified in the licence under Regulation 9.

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- (4) The **Commission** may issue as many further notices to a person under paragraph (2) as the **Commission** thinks necessary to cover the cost of making all the investigations\* necessary to cover the costs referred to in paragraph (3) in relation to the application by the person.
- (5) If the application is for a licence to take effect on the expiry under Regulation 20(3)(b) of another licence, the **Commission** –
- (a) shall consider whether it holds any relevant information previously obtained by it in connection with the expiring licence, and, if so, whether it can rely on that information without repeating any investigation into the same matter;
  - (b) shall reduce the first stage fee if it considers that the full amount is not needed to cover the costs referred to in paragraph (3), whether because any investigation does not need to be repeated or for any other reason; and
  - (c) shall not issue a notice under paragraph (2) unless it considers that there has been a significant change, since the grant of the expiring licence, requiring further investigation.

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## 20 Grant of remote gambling facility provider's licence

- (1) The **Commission** may, after receiving an application under Regulation 18 from a person, grant, or, by notice in writing to the person, refuse to grant, a remote gambling facility provider's licence to the person.
- (2) The **Commission** may only grant a remote gambling facility provider's licence to a person under paragraph (1) if –
- (a) the **Commission** is satisfied that the applicant is a fit and proper person to hold a licence;
  - (b) the **Commission** is satisfied that the person is a Jersey person; and
  - (c) where the **Commission** has sent a notice in writing to the person under Regulation 19(2), the person has, within 30 days of the **Commission** sending the notice, paid the further investigation fee.
- (3) A licence granted under this Regulation –
- (a) shall take effect from a date, no earlier than the date of its grant, specified in the licence; and
  - (b) shall expire 3 years after that date.

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## 21 Form of remote gambling facility provider's licence

- (1) A remote gambling facility provider's licence shall be in the form approved by the **Commission**.
- (2) A remote gambling facility provider's licence shall specify the premises, owned or leased by the holder of the licence, from which remote gambling by the holder of a remote gambling operator's licence may be conducted.

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## 21A Annual fee

- (1) In this Regulation "year of effect" and related expressions have the same meaning as in Regulation 10.

- (2) The holder of a remote facility provider's licence shall pay to the Commission an annual fee of £5,000 in relation to the licence within 28 days after the start of each of the first, second and third years of effect of that licence.
- (3) At the end of a 28 day period referred to in paragraph (2), if the holder of a licence has not paid the annual fee in relation to that year of effect, that licence is revoked by virtue of this paragraph.
- (4) The revocation of a licence under paragraph (3) does not extinguish the liability to pay the fee.

*Conditions of remote gambling facility provider's licence*

**22 Licence may be made subject to conditions**

- (1) The Commission may specify on a remote gambling facility provider's licence the conditions to which the licence shall, in addition to the conditions specified in Regulations 23 to 27, be subject.
- (2) The Commission shall not, under paragraph (1), impose a condition imposed on a licence if the condition would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations 23 to 27.
- (3) The Commission may impose any condition that it considers reasonable to promote observance of the guiding principles, good practice and these Regulations, including but not limited to –
  - (a) a condition requiring compliance with a provision of a code of practice;
  - (b) a condition restricting the remote gambling that may be conducted from the premises specified in the licence, including restrictions as to –
    - (i) the form of that gambling;
    - (ii) the type of remote gambling operator's licence under which the gambling is conducted;
    - (iii) the holder of the remote gambling operator's licence, and whether that person must not be, may be, or must only be the holder of the remote gambling facility provider's licence;
    - (iv) any other matter related to that gambling.
- (4) The Commission shall determine and publish –
  - (a) standard conditions, applicable to all remote gambling facility provider's licences or varying by form of remote gambling or licence or other circumstance; and
  - (b) a statement of its policy on the circumstances in which it intends generally to impose each standard condition.

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Deleted: (3) Without limiting the type of conditions that the Minister may specify on a licence, he or she may specify the type of gambling that may be conducted under the licence.

**23 Condition of licence – use of premises**

- (1) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall notify the Commission of the name of each holder of a remote gambling operator's licence who intends to conduct remote gambling from the premises specified on the remote gambling facility provider's licence.

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- (2) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall not permit the conduct of remote gambling from the premises specified on the licence unless the remote gambling is conducted by a person who holds a remote gambling operator's licence.
- (3) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall permit the ~~Commission~~ –
- (a) to inspect, at any time, the premises specified in the licence;
  - (b) while on the premises in accordance with sub-paragraph (a), to inspect and make, free of charge, any records of any documents situated on the premises, and to open (including by force, if necessary) any container on the premises and to search its contents; and
  - (c) to access any electronic information stored on an electronic device, or by any other means, on the premises and to make, and take away, copies of such information.

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#### 24 Condition of licence – provision of information to ~~Commission~~

It shall be a condition of a remote gambling facility provider's licence that a holder of the licence and his or her employees or agents shall, at all reasonable times, at the request of the ~~Commission~~, take all reasonable steps to provide to the ~~Commission~~ the information that the ~~Commission~~ may reasonably require in relation to –

- (a) the control, by its owners, executive officers and directors, of any company constituting the person or any holding company, or subsidiary company, in relation to the person;
- (b) the conduct of remote gambling from Jersey, or from any other country or territory by a person specified on the remote gambling facility provider's licence; and
- (c) the conduct of any other businesses also owned by the person or any holding company, or subsidiary company, in relation to the person.

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#### 25 Condition of licence – regulatory compliance

It shall be a condition of a remote gambling facility provider's licence that the holder of the licence and his or her employees or agents shall comply with the laws of Jersey relating to money laundering, drug trafficking, data protection and terrorist financing.

#### 26 Condition of licence – notifications

- (1) It shall be a condition of a remote gambling facility provider's licence that a holder of the licence who is a body corporate shall notify the ~~Commission~~ of –
- (a) any change to the company structure;
  - (b) any significant changes to the class of the shares in the company or the rights that attach to them;
  - (c) the identity of each shareholder in the company who holds 5% or more of the shares in the company;
  - (d) any change to the shareholdings of the company, which changes relate to 5% or more of the issued share capital; and
  - (e) any appointments, dismissals, resignations or deaths of the directors of the company.

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(2) It shall be a condition of a remote gambling facility provider's licence that a holder of the licence which is a company shall notify the **Commission** of—

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- (a) any change to the company structure of any holding company, or subsidiary company, in relation to the person;
- (b) any significant changes to the class of the shares in the holding company or subsidiary company or the rights that attach to them;
- (c) the identity of each shareholder in the holding company, or subsidiary company, who holds 5% or more of the shares in the holding company or subsidiary company;
- (d) any change to the shareholdings, which changes relate to 5% or more of the issued share capital of the holding company or subsidiary company; and
- (e) any appointments, dismissals, resignations or deaths of directors of the holding company or subsidiary company.

(3) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall notify the **Commission** —

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- (a) if he or she suspects that remote gambling is being conducted, by the holder of a remote gambling operator's licence specified on the remote gambling facility provider's licence, otherwise than in accordance with the conditions of the remote gambling operator's licence;
- (b) if he or she suspects that money laundering, drug trafficking, or terrorist financing, is being facilitated by remote gambling from the premises; and
- (c) if he or she becomes aware of any events, or any actions, or failures to take action, by the holder of the remote gambling operator's licence that, in the opinion of a reasonable person with knowledge of remote gambling —
  - (i) ought to be notified to a person regulating remote gambling, and
  - (ii) may effect the perception of the probity or integrity of the person or the holder of the remote gambling operator's licence specified on the person's licence.

(4) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall —

- (a) establish and maintain, during any period in which remote gambling is conducted from the premises specified in the licence, a system for monitoring the conduct of remote gambling from the premises; and
- (b) provide to the **Commission**, within each 28 day period that the premises are used for the conduct of remote gambling, reports as to the information obtained by the operation of that system.

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## PART 4

### ALTERATION OF CONDITIONS AND SPECIFICATIONS

#### *Alteration of conditions of licence and specifications*

#### 28 Alteration at request of licensee of conditions of licence

- (1) The holder of a licence may apply to the **Commission** for the alteration or revocation of a condition to which the licence is subject in accordance with **Regulation 11(2), 11(3), 11A** or 22(1).
- (2) An application under paragraph (1) shall be accompanied by a condition alteration fee of £250.
- (3) The **Commission** may, by notice in writing to the holder of a licence who has made an application under paragraph (1) –
  - (a) alter or revoke a condition of the licence in accordance with the application; or
  - (b) refuse to alter or revoke a condition of the licence in accordance with the application.
- (4) The **Commission** shall not alter a condition under paragraph (3) if the condition, as so altered, would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations 12, ~~to 15~~ or 23 to 27.

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**Deleted:** (1) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall not –  
 (a) in Jersey, store or host, on any electronic device by means of which remote gambling is conducted by the holder of a remote gambling operator's licence; or  
 (b) permit any person in Jersey to store, or host, on any electronic device by means of which remote gambling is conducted by the holder of a remote gambling operator's licence,  
 any source code that generates, or affects, the results of any remote gambling conducted by the holder of a remote gambling operator's licence.  
 (2) In paragraph (1), "source code" includes, but is not restricted to including, any modules, functions, algorithms, sub-routines or any third-party source code.

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#### 29 Alteration, at request of licensee, of specified persons and premises

- (1) The holder of a remote gambling operator's licence may apply to the **Commission** for the alteration or revocation of any matter specified on the licence under Regulation 9.
- (2) An application under paragraph (1) shall be accompanied by a specification alteration fee of £250.
- (3) The **Commission** may, by notice in writing to the holder of a remote gambling operator's licence who has made an application under paragraph (2) –
  - (a) alter or revoke; or
  - (b) refuse to alter or revoke,
 any matter specified on the licence under Regulation 9.
- (4) The holder of a remote gambling facility provider's licence may apply to the **Commission** for the alteration or revocation of the specification on the licence, under Regulation 21, of the premises from which remote gambling may take place under the licence.
- (5) An application under paragraph (4) shall be accompanied by a specification alteration fee of £250.
- (6) The **Commission** may, by notice in writing to the holder of a remote gambling facility provider's licence who has made an application under paragraph (4) –
  - (a) alter or revoke; or

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- (b) refuse to alter or revoke,  
the specification on the licence of the premises from which remote gambling may take place under the licence.

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**30 Alteration of conditions of licence or specification by the Commission's own motion**

- (1) The Commission may, of its own motion, by notice in writing to the holder of a licence, alter, add to, or revoke, the conditions of the licence, other than the conditions imposed under Regulations 12 to 15 or 23 to 27.
- (2) The Commission shall not, under paragraph (1), alter or add to the conditions of a licence if the condition as so altered, or that is added, would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations 12 to 15 or 23 to 27.
- (3) The Commission may not, under paragraph (1), alter a condition of a licence, or add a condition to a licence, unless –
- (a) the holder of the licence has been notified of the intended alteration or addition;
- (b) the holder of the licence has been invited to show cause to the Commission why the condition should not be altered as intended or added to the licence; and
- (c) 14 days have expired since the notice was given under sub-paragraph (a) and the holder of the licence has been given an opportunity to show cause to the Commission why the condition should not be altered as intended or added to the licence.
- (4) The Commission may, by notice in writing to the holder of a remote gambling operator's licence, revoke –
- (a) the specification on the licence under Regulation 9 of the name of the holder of the remote gambling facility provider's licence under which remote gambling may be conducted by the holder of the remote gambling operator's licence; and
- (b) the specification on the licence of the premises from which remote gambling may be conducted by the holder of the licence,  
if the remote gambling facility provider's licence has been revoked.

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## PART 5

### BREACH OF CONDITION AND SUSPENSION AND REVOCATION OF LICENCE

**31 Breach of condition**

- (1) The holder of a licence granted under these Regulations shall not contravene a condition of the licence.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.
- (3) Paragraph (2) does not apply to a contravention of a condition if –

- (a) the condition requires compliance with a provision in a code of practice; and
  - (b) the contravention of the condition consists solely of a failure to comply with that provision in that code.
- (4) Paragraphs (2) and (3) do not limit any power of the Commission in relation to a contravention of –
- (a) a condition of a licence; or
  - (b) a provision in a code of practice.

### 32 Suspension of licence

- (1) The Commission may, by notice in writing to the holder of a licence, suspend the licence for a period, or until the occurrence of an event, specified in the notice.
- (2) The Commission may under paragraph (1) only suspend a licence granted to a person if the Commission is satisfied that –
- (a) the person, a foreign gambling corporation in relation to the person or a person acting on behalf of or under the general supervision of the person or foreign gambling corporation, has committed an offence against –
    - (i) the Law or these Regulations, or
    - (ii) the law of Jersey, or of another country or territory, relating to money laundering, drug trafficking, terrorist financing or data protection, or an offence of which dishonesty is a component;
  - (b) a condition of the licence has been breached;
  - (ba) where the licence is a disaster recovery operator's licence, remote gambling has been conducted from Jersey under the licence for periods that (by their length, frequency, pattern or otherwise) indicate that the holder can reasonably be expected, having regard to the policy published under Regulation 8(1C), to apply for a general remote operator's licence if any further remote gambling is to be conducted from Jersey during the period of the suspension;
  - (c) a compliance direction has not been complied with;
  - (d) there is evidence that the person has ceased to be a fit and proper person to hold the licence; or
  - (e) the continued conduct of operations under the licence threatens to harm the reputation of Jersey in relation to financial matters.
- (3) If a remote gambling operator's licence has been suspended under paragraph (1), the Commission shall, as soon as practicable, notify the holder of the remote gambling facility provider's licence whose name is specified on the remote gambling operator's licence that –
- (a) the licence has been suspended and the period of the suspension; and
  - (b) the holder of the remote gambling facility provider's licence is not authorized, during the period of the suspension, to permit or enable the holder of the remote gambling operator's licence to conduct remote gambling.
- (4) If a remote gambling facility provider's licence has been suspended under paragraph (1), the Commission shall, as soon as practicable, notify the holder of

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any remote gambling operator's licence on which is specified the name of the holder of the remote gambling facility provider's licence that –

- (a) the licence has been suspended and the period of the suspension; and
- (b) the holder of the remote gambling operator's licence is not authorized, during the period of the suspension, to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.

### 33 Revocation of licence

- (1) The ~~Commission~~ may, by notice in writing to the holder of a licence, revoke the licence.
- (2) The ~~Commission~~ may under paragraph (1) only revoke a licence granted to a person if the ~~Commission~~ is satisfied that –
  - (a) a person provided false or misleading information in the application for the licence;
  - (b) the licence was granted in error;
  - (c) the person, a foreign gambling corporation in relation to the person or a person acting on behalf of or under the general supervision of the person or foreign gambling corporation, has committed an offence against –
    - (i) the Law or these Regulations, or
    - (ii) the law of Jersey, or of another country or territory, relating to money laundering, drug trafficking, terrorist financing or data protection, or an offence of which dishonesty is a component;
  - (d) a condition of the licence has been breached;
  - (e) a compliance direction has not been complied with;
  - (f) there is evidence that the person has ceased to be a fit and proper person to hold the licence; or
  - (g) the continued conduct of operations under the licence threatens to harm the reputation of Jersey in relation to financial matters.
- (3) If the holder of a licence under these Regulations is convicted of an offence under the Law or any Regulations or Orders made under the Law, the court shall order that the licence shall be revoked.
- (4) An order made under paragraph (3) –
  - (a) shall not have effect until the end of the period within which notice of the appeal against the conviction which gave rise to the order may be given;
  - (b) if notice of appeal against that conviction is duly given, shall not have effect until the appeal has been determined or abandoned; and
  - (c) shall not have effect if, on such appeal, the appeal is allowed.
- (5) If a licence is revoked by an order under paragraph (3), the court shall send a copy of the order to the ~~Commission~~ and the ~~Commission~~ may, despite anything in these Regulations, refuse any application by that person for the grant of a licence under these Regulations.
- (6) If a remote gambling operator's licence has been revoked under paragraph (1) or (3), the ~~Commission~~ shall, as soon as practicable, notify the holder of the remote gambling facility provider's licence on which is specified the name of the holder of the remote gambling operator's licence, that –

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- (a) the licence has been revoked; and
  - (b) the holder of the remote gambling facility provider's licence is not permitted to enable the former holder of the remote gambling operator's licence to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.
- (7) If a remote gambling facility provider's licence has been revoked under paragraph (1) or (3), the **Commission** shall, as soon as practicable, notify the holder of any remote gambling operator's licence on which is specified the name of the holder of the remote gambling facility provider's licence that –
- (a) the licence has been revoked; and
  - (b) the holder of the remote gambling operator's licence is not authorized to conduct remote gambling from any premises owned or leased by the former holder of the remote gambling facility provider's licence.

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## PART 6

### CONDUCT OF REMOTE GAMBLING UNDER REMOTE GAMBLING OPERATOR'S LICENCE

#### 34 Operator to notify **Commission** when remote gambling from Jersey begins under disaster recovery licence

- (1) The holder of a **disaster recovery** operator's licence is not authorized to conduct remote gambling from Jersey under the licence unless there is an activating disaster in relation to the licence.
- (2) If –
  - (a) there is an activating disaster in relation to a **disaster recovery** operator's licence; and
  - (b) the holder of the licence begins to conduct remote gambling operations from Jersey under the licence,
 the holder of the licence shall, within 3 working days, notify the **Commission**.
- (3) A notice for the purposes of paragraph (2) given by a holder of a licence shall specify –
  - (a) the nature of the activating disaster; and
  - (b) the time and date on which the holder of the licence began to conduct remote gambling operations from Jersey under the licence.
- (4) A holder of a licence who contravenes paragraph (3) commits an offence and shall be liable to a fine of level 4 on the standard scale.
- (5) Within 5 working days after the holder of a **disaster recovery** operator's licence begins to conduct remote gambling operations from Jersey, or a longer period, if any, that the **Commission** specifies in relation to the person, the person shall –
  - (a) provide to the **Commission**, in documentary form, further details and evidence that the activating disaster referred to in the notice the person has given for the purposes of paragraph (2) has occurred; and
  - (b) notify the **Commission**, in writing, of the period for which the person intends to conduct remote gambling operations from Jersey under the licence.

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- (6) The period for the purposes of paragraph (5) shall be a period not more than 3 months beginning on the day on which the person began to conduct remote gambling operations from Jersey under the licence.
- (7) A person who contravenes paragraph (5) commits an offence and shall be liable to a fine of level 4 on the standard scale.

**35 Facility provider to notify Commission when premises begin to be used for conduct of remote gambling under disaster recovery licence**

- (1) The holder of a remote gambling facility provider's licence shall, within 8 hours after remote gambling begins to be conducted under a disaster recovery operator's licence from premises in Jersey specified in his or her licence, notify the Commission.
- (2) A notice for the purposes of paragraph (1) –
  - (a) may be given in writing, or by writing delivered by facsimile, email or other electronic method; and
  - (b) shall specify the date and exact time at which the remote gambling began to be conducted from the premises.
- (3) The holder of a remote gambling facility provider's licence shall, within 72 hours after remote gambling begins to be conducted under a disaster recovery operator's licence from premises in Jersey specified in his or her licence, notify the Commission.
- (4) A notice for the purposes of paragraph (3) –
  - (a) shall be in writing, signed by the holder of the licence or an employee or agent of the holder, and shall not be delivered by facsimile, email or other electronic manner; and
  - (b) shall specify the date and exact time at which the remote gambling from the premises in Jersey began to be conducted.
- (5) A person who contravenes paragraph (1) or (3) commits an offence and shall be liable to a fine of level 4 on the standard scale.

**Deleted:** (8) If remote gambling has, under a remote gambling operator's licence, been conducted from Jersey under the licence for a period in a calendar year (including a period that has been extended under Regulation 37), remote gambling may not be conducted under the licence for a further period in that calendar year.¶

**35 . Facility provider to notify Minister when premises begin to be used for conduct of remote gambling¶**

(1) The holder of a remote gambling facility provider's licence shall, within 8 hours after remote gambling begins to be conducted from premises in Jersey specified in his or her licence, notify the Minister.¶

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**36 Daily operation fee**

- (1) If the holder of a disaster recovery operator's licence begins to conduct remote gambling from Jersey under the licence, he or she shall, within 14 days, pay to the Commission, for each day, or part of a day, during which he or she conducts remote gambling from Jersey under the licence, a daily operation fee for the licence of £250.
- (2) If the holder of a disaster recovery operator's licence does not pay the daily operation fee within the period specified in paragraph (1), the licence shall, if it is still in force, be revoked by virtue of this paragraph.

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**37 Extension of active licence period**

- (1) A holder of a disaster recovery operator's licence who is conducting remote gambling from Jersey under the licence may, in writing, request the Commission to extend the period for which remote gambling may be conducted by him or her from Jersey under the licence.

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- (2) A request under paragraph (1) shall specify the grounds on which the extension of the period is sought.
- (3) The ~~Commission~~ shall, within 30 days after receiving a request under paragraph (1) from a holder of a ~~disaster recovery~~ operator's licence, by notice in writing to the person –
- extend the period for which remote gambling may be conducted from Jersey under the licence; or
  - refuse to so extend the period.
- (4) The ~~Commission~~ may, under paragraph (3), extend the period for which remote gambling may be conducted from Jersey under the ~~licence~~ for the same period as the period sought in the request to which the extension relates, or for a shorter or longer period.
- ~~(4A) In considering whether (and for what period) to extend a period under paragraph (3), the Commission shall take account of its power to suspend a licence under Regulation 32(2)(ba), but it may extend a period whether or not it proposes to suspend the licence under that power on or after the expiry of the extended period.~~
- (5) The ~~Commission~~ shall not, under paragraph (3), extend the period for which remote gambling may be conducted from Jersey under the licence if the ~~Commission~~ is of the opinion that –
- the grounds constituting the activating disaster in relation to the licence have ceased to exist or have altered sufficiently for there to no longer be a need for remote gambling to be conducted from Jersey by the person; and
  - there are no other grounds that are sufficient to constitute an activating disaster in relation to the licence and that are likely to constitute an activating disaster for the period of the extension.

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### 38 Remote gambling restricted where related licences or foreign authorization suspended or revoked

- (1) If –
- a ~~disaster recovery operator's~~ licence, is granted to a person; and
  - the foreign authorization, in respect of the foreign gambling corporation in relation to that person, is subsequently suspended or revoked,
- ~~the disaster recovery operator's licence~~ is, by virtue of this paragraph, suspended for the same period, or revoked, as the case may be.
- (2) If a notice is given under Regulation 32(3) to the holder of a remote gambling facility provider's licence, he or she is not authorized, during the period of the suspension referred to in the notice, to permit or enable the holder of the remote gambling operator's licence specified in the notice to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.
- (3) If a notice is given under Regulation 32(4) to the holder of a remote gambling operator's licence, he or she is not authorized, during the period of the suspension referred to in the notice, to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence specified in the notice.

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- (4) If a notice is given under Regulation 33(6) to the holder of a remote gambling facility provider's licence, he or she is not authorized to enable the former holder of the remote gambling operator's licence specified in the notice to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.
- (5) If a notice is given under Regulation 33(7) to the holder of a remote gambling operator's licence, he or she is not authorized to conduct remote gambling from any premises owned or leased by the former holder of the remote gambling facility provider's licence specified in the notice.
- (6) A person who contravenes any of paragraphs (2) to (5) commits an offence and shall be liable to a fine of level 4 on the standard scale.

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**39 Operator to notify Commission when remote gambling from Jersey ceases**

- (1) The holder of a disaster recovery operator's licence shall, at least 24 hours before ceasing to conduct remote gambling from Jersey under the licence, notify the Commission of the time and date at which the holder of the licence shall cease to conduct remote gambling from Jersey under the licence.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.

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**40 Facility provider to notify Commission when premises cease to be used for conduct of remote gambling**

- (1) The holder of a remote gambling facility provider's licence shall notify the Commission within 24 hours after remote gambling ceases to be conducted under a disaster recovery operator's licence from premises specified in the remote gambling facility provider's licence.
- (2) The notice for the purposes of paragraph (1) shall be in writing, signed by the holder of the remote gambling facility provider's licence or an employee or agent of the holder, and specify the date and exact time at which the remote gambling from the premises in Jersey ceased to be conducted.
- (3) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.

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**PART 7**

**REGULATION OF REMOTE GAMBLING**

**41 Supervision of remote gambling**

- (1) The Commission shall supervise the conduct of remote gambling that takes place from premises in Jersey.
- (2) Without limiting the generality of paragraph (1), the Commission shall hear promptly any complaint made to it in relation to the conduct of remote gambling operations under a licence and conduct the further investigations that it thinks fit into the subject matter of the complaint.

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42 **Commission may issue compliance directions**

- (1) The ~~Commission~~ may, by notice in writing, issue a compliance direction to –
- (a) the holder of a remote gambling operator's licence who is conducting ~~from~~ Jersey remote gambling; or
  - (b) the holder of a remote gambling facility provider's licence whose name is specified on a remote gambling operator's licence, if remote gambling is being conducted ~~from~~ Jersey by the holder of the remote gambling operator's licence.
- (2) A compliance direction may require the holder of a licence to whom the direction is issued to take an action, or not to take an action, specified in the direction.
- ~~(3) The Commission may not issue a compliance direction unless it considers it is the best reasonably available means to ensure observance of any one or more of the following –~~
- ~~(a) a condition of the licence;~~
  - ~~(b) good practice;~~
  - ~~(c) the guiding principles;~~
  - ~~(d) any provision of these Regulations;~~
  - ~~(e) any provision of the Law.~~
- (4) A holder of a licence who contravenes a compliance direction issued to him or her commits an offence and shall be liable to a fine of level 4 on the standard scale.

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## PART 8

### APPEALS AGAINST DECISIONS

43 **Right of appeal to Royal Court**

- (1) A person who has applied for a licence under these Regulations may appeal to the Royal Court against a decision by the ~~Commission~~ under Regulation 7 ~~or~~ 20 to refuse to grant the licence to the person.
- ~~(1A) A person notified under Regulation 10(6)(a) of an annual fee falling within Regulation 10(8)(b) or (c) may appeal to the Royal Court against the decision of the Commission as to the calculation, estimate or treatment of the remote gambling yield under Regulation 10(7).~~
- (2) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the Commission under Regulation 11(3), 11A or 22(1) to impose or substitute a condition on a licence granted to the person.
- (3) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the ~~Commission~~ –
- (a) under Regulation 28 to refuse to alter the conditions imposed on the licence;
  - (b) under Regulation 30 to alter a condition imposed on, or to add a condition to, the licence; or
  - (c) under Regulation 32 or 33 to suspend or revoke the licence.

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Deleted: (2) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the Minister under Regulation 11(3) or 22(1) to impose a condition on a licence granted to the person.

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- (4) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the **Commission** under Regulation 29 to refuse to alter any matter specified on the licence under Regulation 9 or 21.
- (5) A person may appeal to the Royal Court against a decision by the **Commission** under Regulation 42 to issue a compliance direction to the person.

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#### 44 Appeals

- (1) An appeal under Regulation 43 shall be brought within 21 days after the appellant receives notice in writing of the decision appealed against or within such further time as the Royal Court may allow.
- (2) Unless the Royal Court so orders, the lodging of an appeal shall not operate to stay the effect of a decision pending the determination of the appeal.
- (3) On hearing the appeal, the Royal Court may confirm, reverse or vary the decision against which the appeal is brought.

#### 45 Appeal to Court of Appeal against decision of Royal Court on appeal

The **Commission** and an appellant under this Part shall have a right of appeal to the Court of Appeal against a decision of the Royal Court under Regulation 44.

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## PART 9

### CONCLUDING PROVISIONS

#### 46 False information

- (1) A person shall not make a statement that is false or misleading in any material particular in an application made to, or information provided to, the **Commission** under these Regulations.
- (2) A person shall not falsify or alter any document that is issued by the **Commission**, under these Regulations or provide to the **Commission**, or a delegate of the **Commission**, a document that has been falsified or altered by the person or that the person knows to have been falsified or altered.
- (3) A person shall not produce to the **Commission** an invalid document that purports to be a valid document, if he or she knows, or ought reasonably be expected to know, that the document is invalid.
- (4) A person who contravenes paragraph (1), (2) or (3) commits an offence and shall be liable to imprisonment for one year and to a fine.

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#### 46A Fees

Any fee payable under these Regulations is payable to the Commission as agent for the States.

#### 47 Citation

These Regulations may be cited as the Gambling (Remote Gambling) (Jersey) **Regulations** 2008.

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{Schedules deleted}

{NB Transitional provisions}