

GAMBLING (JERSEY) LAW 2012

Official Consolidated Version

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Jersey

GAMBLING (JERSEY) LAW 2012

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Jersey

GAMBLING (JERSEY) LAW 2012

A LAW to restate and amend the law relating to gambling; to licence commercial provision of forms of gambling services; to regulate private and non-commercial gambling; to establish enforcement powers and provide for offences in relation to gambling; and for connected purposes.

Commencement [see endnotes]

PART 1

INTERPRETATION AND APPLICATION

1 Interpretation[1]

In this Law, unless the context otherwise requires –

"advertise", in relation to gambling, has the meaning given by Article 29;

"ancillary service" has the meaning given by Article 23;

"anti-money laundering and counter-terrorism legislation" has the meaning given by Article 3 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008;

"applicant" means a person applying to be granted a licence;

"associate" has the meaning given by Article 4;

"child" means a person under the age of 18;

"code of practice" means a code of practice approved under Article 6 of the Commission Law;

"commercial gambling" has the meaning given by Article 7;

"commercial operator" has the meaning given by Article 7;

"Commission" means the Jersey Gambling Commission established by the Commission Law;

"Commission Law" means the Gambling Commission (Jersey) Law 2010;

"condition" means a condition imposed on a licence, permit or approval under this Law;

"conduct", in relation to gambling, has the meaning given by Article 2;

"Court" means the Royal Court;

"customer" has the meaning given by Article 7;

"direction" means a direction under Article 35;

"equipment" includes software;

"facilitate", in relation to gambling, has the meaning given by Article 2;

"gambling" includes all forms of betting, gaming and lottery;

"gambling advertisement" has the meaning given by Article 29;

"gambling service" has the meaning given by Article 2;

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

"guiding principles" means the principles set out in Article 4 of the Commission Law;

"holding body" has the meaning given by Article 2 of the Companies (Jersey) Law 1991, but without reference to Article 1(2) of that Law;

"licence" means a licence granted under this Law;

"licensee" means a person holding a licence;

"Minister" means the Minister for Sustainable Economic Development;

"principal person", in relation to an applicant or a licensee, has the meaning given by Article 4;

"private gambling" has the meaning given by Article 28;

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

"subsidiary" has the meaning given by Article 2 of the Companies (Jersey) Law 1991, but without reference to Article 1(2) of that Law;

"type of gambling" has the meaning given by Article 3.

2 Gambling service, facilitation and conduct defined

(1) For the purposes of this Law a gambling service is a service that –

(a) is provided by a person to another person; and

(b) consists wholly or mainly of –

(i) gambling with that other person, in accordance with arrangements made by the person providing the service, or

(ii) facilitating gambling by that other person.

(2) A person facilitates gambling by another person if the person –

(a) provides, operates or administers arrangements for that other person's gambling; or

(b) participates in the operation or administration of that other person's gambling.

(3) The States may, by Regulations, prescribe –

(a) acts falling within paragraph (2) which are nevertheless not to be treated as facilitating gambling;

(b) acts not falling within paragraph (2) which are nevertheless to be treated as facilitating gambling.

(4) For the purposes of this Law a person conducts gambling if the person provides a gambling service in relation to that gambling.

(5) Paragraph (4) applies irrespective of –

(a) whether any other person also conducts the same gambling by providing another gambling service in relation to it; and

(b) whether any other person conducting the gambling does so as a commercial operator or otherwise.

3 Types of gambling

(1) A reference in this Law to a type of gambling is to a type distinguished by reference to any aspect of the gambling or its conduct.

(2) The aspects by reference to which a type of gambling may be distinguished from another type include –

(a) the form of gambling, such as betting, gaming and lotteries, and combinations and subdivisions of those (or of other forms), such as pool betting, spread betting, games of mixed chance and skill, or games of equal or unequal chance;

(b) the means by which gambling is conducted or paid for, such as through remote or electronic communication, by telephone, through gaming machines or amusements with prizes, with cards, dice or other equipment, or with payment by credit card;

(c) the premises or locations in which gambling is conducted, such as dedicated offices, public houses, race tracks or public places;

(d) the persons by whom gambling is conducted, such as natural persons, bodies corporate or other forms of body, or persons with specified connections with Jersey or with other territories or countries;

(e) the persons with whom gambling is conducted, such as persons with specified relationships to each other, persons of particular ages, persons who have indicated in a specified manner that they wish to be prevented from gambling, persons suffering from any other specified vulnerability, persons not present in Jersey, or persons in particular countries or territories;

(f) the purposes for which gambling is conducted, such as to raise money for a specified purpose or to entertain persons attending at an event held for a purpose other than gambling, or as an inducement for persons to attend such an event;

(g) the financial aspects of gambling, such as the amounts which may be won or lost by those gambling, the amounts made by a person conducting gambling, or the means of payment such as by credit card; or

(h) the circumstances in which gambling is conducted, such as the number or nature of the occasions on which it is conducted or the manner in which it is or is not advertised,

as any of those terms may be defined by the person, or in the enactment or instrument, making the distinction.

(3) Nothing in paragraph (2) limits paragraph (1).

(4) A reference in this Law to a type of service, licence, permit, approval or registration, is to be read accordingly as a reference to a service, licence, permit, approval or registration, in relation to a type of gambling.

4 Associate and principal person defined

(1) For the purposes of this Law an associate, in relation to a person, is –

(a) the person's husband, wife, civil partner, child or stepchild;

(b) the person's partner;

(c) a company of which the person is a director;

(d) where the person is a company –

(i) a director or employee of the company,

(ii) another company that is the company's holding body, the company's subsidiary, or a subsidiary of the company's holding body, and

(iii) a director or employee of a company falling within clause (ii); and

(e) another person with whom the person has an agreement, arrangement or other obligation –

(i) to act together in exercising voting power,

(ii) with respect to the acquisition, holding or disposal of shares or other interests in a company, partnership or other association.[2]

(2) For the purposes of this Law a principal person, in relation to an applicant or a licensee, is a person falling within any one or more of paragraphs (3) to (8), as read with paragraph (9).

(3) A person falls within this paragraph in relation to an applicant or licensee that is a sole trader, if the person is the proprietor.

(4) A person falls within this paragraph in relation to an applicant or licensee that is a company, if the person is –

(a) a person who, either alone or with any associate or associates –

(i) directly or indirectly holds 10% or more of the share capital issued by the company,

(ii) is entitled to exercise or control the exercise of not less than 10% of the voting power in general meeting of the company or of any other company of which it is a subsidiary, or

(iii) has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company;

(b) a director; or

(c) a person in accordance with whose directions, whether given directly or indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity).

(5) A person falls within this paragraph in relation to an applicant or licensee that is a partnership, if the person is –

(a) a partner; or

(b) where a partner is a company, any person who, in relation to that company, falls within paragraph (4)(a), (b) or (c).

(6) A person falls within this paragraph in relation to an applicant or licensee whose registered office and principal place of business is outside Jersey, if the person, either alone or jointly with one or more other persons, is responsible for the conduct of the applicant's or licensee's gambling business in Jersey.

(7) A person falls within this paragraph in relation to an applicant or licensee who has become bankrupt, if the person has been appointed as liquidator or administrator of the bankrupt person's affairs.

(8) A person falls within this paragraph in relation to an applicant or licensee if the person appears to the Commission to be likely to be able to influence, whether as an associate, employee, agent, officer, member, relative or otherwise –

(a) the behaviour of the licensee, or of the applicant after being granted a licence; or

(b) the outcome of gambling conducted by the licensee, or by the applicant after being granted a licence.

(9) This Article applies in relation to a body corporate (wherever incorporated) that is not a company as it applies to a company, and references to a director or member, or to a share, holding or vote, are to be read as references to any equivalent person or interest in relation to such a body.

5 Application of Law

(1) Nothing in or under Parts 2, 3 or 4 of this Law is to be construed as applying to private gambling unless it expressly so provides.

(2) Nothing in this Law applies to an act that constitutes exempt finance business, irrespective of whether that act also constitutes gambling or the facilitation or conduct of gambling.

(3) In paragraph (2) "exempt finance business" means –

(a) deposit-taking business within the meaning of the Banking Business (Jersey) Law 1991;

(b) the business of –

(i) a collective investment fund within the meaning of the Collective Investment Funds (Jersey) Law 1988, or

(ii) a scheme or arrangement that, but for the operation of an Order under Article 3(7) of that Law, would constitute such a fund;

(c) financial service business within the meaning of the Financial Services (Jersey) Law 1998 or any act that would be such financial service business but for an exclusion or exemption conferred by any provision of that Law or by Regulations or an Order made under that Law;

(d) insurance business for the purposes of the Insurance Business (Jersey) Law 1996;

(e) the use or proposed use of chance to select particular securities for special benefits, if –

(i) the securities are issued by the States or by or under the Authority of Her Majesty's Government in the United Kingdom, and

(ii) the terms of the issue provide that the amount subscribed is to be repayable in full in the case of all the securities.[3]

(4) The Minister may by Order, after consulting the Commission and the Jersey Financial Services Commission, amend any sub-paragraph of paragraph (3).

(5) Nothing in this Law applies to the disposal by lot of any land, goods or other thing whatsoever under and in accordance with the law, whether customary or enacted, of Jersey.

6 No general right to gamble

Nothing in this Law is to be construed as requiring, and no enactment under this Law may require –

(a) the Commission to grant a licence, permit, approval, or registration for any particular type of gambling or to any particular applicant or to an applicant of any particular description; or

(b) a person to provide a gambling service to any particular person.

PART 2

COMMERCIAL GAMBLING SERVICES

7 Interpretation: commercial gambling

(1) For the purposes of this Law –

(a) a commercial gambling service is a gambling service that –

(i) is provided by way of business, and

(ii) is provided to a person who gambles otherwise than by way of business;

(b) a commercial operator is a person who –

(i) provides a commercial gambling service, or

(ii) holds himself, herself or itself out as providing or as offering to provide such a service;

(c) a customer is a person –

(i) who gambles otherwise than by way of business, and

(ii) to whom a commercial gambling service is provided in relation to that gambling; and

(d) gambling is commercial gambling if at least one of the persons who gambles does so as a customer of a commercial operator.

(2) For the purpose of paragraph (1), it is irrelevant –

(a) whether there are other persons who gamble in addition to the customer, and whether they do so as customers or otherwise; and

(b) whether there are other persons who provide a gambling service in relation to the gambling, and whether they do so as commercial operators or otherwise.

8 Prohibition of unlicensed provision of commercial gambling services

(1) Unless a person holds for the time being a licence granted under this Part, that person must not –

(a) provide a commercial gambling service in or from within Jersey;

(b) hold himself, herself or itself out as providing a commercial gambling service in or from within Jersey;

(c) being a body incorporated in Jersey, provide a commercial gambling service in any part of the world; or

(d) being a body incorporated in Jersey, hold himself, herself or itself out as providing a commercial gambling service in any part of the world.

(2) The States may by Regulations –

(a) prescribe circumstances in which, and restrictions subject to which, paragraph (1) does not apply to the provision of a type of commercial gambling service;

(b) prescribe circumstances in which the provision of a type of gambling service is to be treated as being, or not being, in or from within Jersey.

(3) A person who contravenes this Article is guilty of an offence and liable to imprisonment for a term of 5 years and to a fine.

9 Commission policy

(1) The Commission must prepare a statement setting out the Commission's policy as to the circumstances in which, and the types of gambling for which, it will generally (and subject to Articles 6 and 10) grant or refuse an application for a licence.

(2) The statement must also –

(a) indicate when standard supplementary conditions will be imposed on a licence, either by setting out details in the statement or by giving information as to the publication of those details in the document publishing the standard supplementary conditions under Article 19; and

(b) set out the Commission's policy as to the circumstances in which, and the types of gambling for which, if it grants a licence, it will generally specify in the licence an expiry date of less than 5 years under Article 14(2)(b).

(3) Before preparing a statement, or making a significant revision of a statement under paragraph (4)(b), the Commission must consult the Minister, licensees and such other persons as the Commission thinks appropriate.

(4) The Commission must –

(a) review the statement from time to time;

(b) revise the statement when the Commission thinks it necessary; and

(c) as soon as is reasonably practicable –

(i) send the statement, as prepared or revised, to the Minister, and

(ii) publish that statement.

(5) The Commission must have regard to the published statement when deciding whether to take any action referred to in paragraph (1) or (2).

(6) Nothing in a statement is to be taken as an exhaustive description of the circumstances in which, or the types of gambling for which, the Commission will or may refuse an application for a licence.

(7) In carrying out its functions under this Part the Commission must in particular, and in addition to its duties under Articles 4, 6(1) and 7(5) of the Commission Law, aim to secure –

(a) the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by, or the financial unsoundness of, providers of commercial gambling services; and

(b) the protection and enhancement of the reputation and integrity of Jersey in gambling matters, and in commercial and financial matters as those are affected by commercial gambling.

10 Regulations to prevent or restrict licensing of types of gambling

The States may by Regulations –

(a) provide that no licence may be granted by the Commission for a prescribed type of gambling;

(b) provide that no licence may be granted by the Commission for a prescribed type of gambling, except –

(i) in prescribed circumstances,

(ii) subject to prescribed conditions, in addition to the mandatory conditions in Articles 16 and 17, or

(iii) in prescribed circumstances and subject to such additional prescribed conditions;

(c) provide that, unless a licence expressly provides otherwise, the licence –

(i) does not permit a prescribed type of gambling, or

(ii) if it is a licence for a prescribed type of gambling, is to be subject to prescribed conditions in addition to the mandatory conditions in Articles 16 and 17.

11 Applications for licences

(1) A person (referred to in this Law as an "applicant") who intends to provide a commercial gambling service must make an application to the Commission for a licence under this Part.

(2) An application under paragraph (1) must –

(a) be in such form as the Commission may from time to time determine and publish for the type of commercial gambling service that the applicant intends to provide; and

(b) contain or be accompanied by such information and documents as the Commission may require, relating to the applicant, to the applicant's business, to the gambling to be conducted under the licence, or to persons who are principal persons in relation to the applicant, and verified in such manner as the Commission may require.

(3) At any time after receiving an application and before determining it the Commission may, at its discretion, by written notice require the applicant to provide such additional information or documents as the Commission reasonably requires for the determination of the application, verified in such manner as the Commission may require, and such requirements may differ as between different applications and different types of commercial gambling service.

(4) The Commission may by written notice require the applicant to provide a report by an auditor or accountant, or other expert or qualified person approved by the Commission, on such aspects of any information and documents required by or under paragraph (2)(b) or (3) as the Commission may specify.

(5) If, while an application is awaiting determination by the Commission, the applicant –

(a) determines to bring about any alteration in; or

(b) becomes aware of any event which may affect in any material respect,

any information or document supplied to the Commission in connection with the application, the applicant must forthwith give written notice of that matter to the Commission.

(6) An applicant may, by written notice to the Commission, withdraw the application at any time before it is granted or refused.

12 Circumstances in which Commission may grant licence

(1) The Commission may only grant a licence to a person if the Commission is satisfied that –

(a) having regard to the information before the Commission as to –

(i) the integrity, competence, financial standing, structure and organization of the applicant,

(ii) the persons employed by or associated with the applicant for the purposes of the applicant's business or who are principal persons in relation to the applicant, and

(iii) the description of commercial gambling service which the applicant proposes to provide,

the applicant is a fit and proper person to conduct gambling under the licence;

(b) the person will ensure that gambling is conducted fairly and that appropriate protection will be provided by the person to customers of the person;

(c) the person will establish and maintain, during any period in which gambling is conducted under the licence, a system for monitoring the conduct of gambling under the licence;

(d) the grant of the licence to the person will not be harmful to the reputation and integrity of Jersey in gambling matters, or in commercial and financial matters as those are affected by commercial gambling;

(e) the person has a sufficient connection with Jersey to enable the Commission to take effective enforcement action against the person;

(f) there is not another type of gambling licence that would be more appropriate than the type for which the person has applied, for the gambling proposed to be conducted from Jersey under the licence;

(g) an independent person approved by the Commission has tested each item of equipment that will be used in the conduct of the gambling under the licence and that may affect –

(i) the outcome of gambling under the licence; or

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

(h) where the Commission has sent a notice in writing to the person under Article 13(5), the person has, within 30 days of the Commission sending the notice, paid the further investigation fee.

(2) Paragraph (1)(g) 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.

(3) Without limiting the matters that the Commission may take into account in determining whether to grant a gambling licence to an applicant, the Commission must take into account –

(a) the financial standing, including the financial stability and the adequacy of the capital base, of the applicant;

(b) whether the applicant conducts gambling and associated operations in a fair manner;

(c) if the applicant, or a principal person in relation to the applicant, conducts gambling in a country or territory outside Jersey, the extent to which the laws of that country or territory are adequate to regulate that applicant or principal person, in its conduct of gambling in that country or territory, in a manner that ensures that the reputation and integrity of Jersey in gambling matters, and in commercial and financial matters as those are affected by commercial gambling, would not be harmed by the grant of a licence;

(d) whether the applicant has at any time been subject to adverse findings, in respect of the conduct of gambling in a country or territory outside Jersey, by a law enforcement agency situated in that country or territory;

(e) whether the applicant has at any time and whether or not in relation to the application, in any case where information was required under this Law in any connection –

(i) failed to provide any such information, or

(ii) provided to the Commission information which was untrue or misleading in any material particular;

(f) whether the applicant has at any time failed, in any material respect, to comply with –

(i) a condition on a current or previous licence held by the applicant,

(ii) a code of practice, or

(iii) a direction given to the person at any time;

(g) whether at any time –

(i) a direction has been given on the basis of any default by the applicant,

(ii) an injunction has been issued under Article 36(2) to the applicant,

(iii) an order has been made under Article 36(4) on the basis of any contravention by the applicant,

(iv) the applicant has been the subject of an order for intervention under Article 37,

(v) a licence held by the applicant has been revoked under Article 38, or

(vi) the applicant has been served with a final notice of a civil financial penalty under Article 39;

(h) whether the applicant or any person employed by or associated with the applicant for the purposes of the applicant's business has been convicted of –

(i) an offence under this Law or the Commission Law,

(ii) an offence under the anti-money laundering and counter-terrorism legislation;

(iii) an offence under the Data Protection (Jersey) Law 2018, the Supply of Goods and Services (Jersey) Law 2009 or the Distance Selling (Jersey) Law 2007;

(iv) an offence of perjury or conspiracy to pervert the course of justice, or any other offence involving fraud or other dishonesty, or

(v) any offence, under the law of a country or territory outside Jersey, that is similar to an offence mentioned in any of clauses (i) to (iv);

(i) the adequacy of the applicant's systems (including equipment), and of any testing carried out on those systems, that are in place in relation to the gambling to ensure that the applicant conducts the gambling in accordance with the guiding principles and in compliance with any relevant code of practice;

(j) whether there is any other person –

(i) who is a principal person in relation to the applicant, and

(ii) in relation to whom the Commission considers it should enquire into any of the matters referred to in any of sub-paragraphs (a) to (h) because of that person's relationship to the applicant;

(k) whether the imposition of conditions may be sufficient to address any concerns of the Commission in relation to any issue taken into account under any of sub-paragraphs (a) to (j); and

(l) its policy published under Article 9.[4]

(4) The assessment of the adequacy of the applicant's systems under paragraph (3)(i) must include, but is not limited to, whether the systems are adequate to ensure that –

(a) each customer's funds are separately recorded from each other customer's funds and from the funds of the applicant;

(b) customers' winnings are paid out accurately and promptly;

(c) accurate recording is made and kept of deposits and wagers;

(d) any funds of a customer that are held by the applicant and that have not been used by the customer are kept separately from the funds of the applicant, may not be used by the applicant, any creditors of the applicant or any holding body or subsidiary of the applicant, and are refundable to the customer at the customer's request;

(e) persons may, at their own request or otherwise, be excluded from or limited as to gambling as customers of the applicant; and

(f) the applicant complies with the anti-money laundering and counter-terrorism legislation and the Data Protection (Jersey) Law 2018, and with any similar laws of any country or territory outside Jersey in which the applicant will conduct gambling.

(5) If the application is for a licence to take effect on the expiry of another licence, the Commission –

(a) must 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.

(6) For the purpose of this Article, any action taken under any enactment repealed or revoked by this Law is to be treated as if it had been taken under any equivalent provision of or under this Law.

13 Fees for application and further investigation

(1) The Commission may, in accordance with Articles 46 and 47, publish first stage application fees and further investigation fees in relation to applications for licences.

(2) The Commission may publish different fees under paragraph (1) in relation to different types of licences or different circumstances, and may vary or withdraw a published fee.

(3) Paragraphs (4) to (8) apply in relation to a fee published under paragraph (1).

(4) An application under Article 11 must be accompanied by a published first stage application fee.

(5) The Commission may, by notice in writing, require an applicant to pay a published further investigation fee.

(6) The Commission may only issue a notice to a person under paragraph (5) 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 licence in accordance with the application by the person.

(7) The Commission may issue as many further notices to a person under paragraph (5) as the Commission thinks necessary to cover the costs referred to in paragraph (6) in relation to the application by the person.

(8) If the application is for a licence to take effect on the expiry under Article 14(2)(b) of another licence, the Commission –

(a) must take account of its duty and power under Article 12(5);

(b) must reduce the first stage fee by such amount as it thinks fit, if it considers that the full amount is not needed to cover the costs referred to in paragraph (6), whether because any investigation does not need to be repeated or for any other reason; and

(c) must not issue a notice under paragraph (5) unless it considers that there has been a significant change, since the grant of the expiring licence, requiring further investigation.

14 Grant or refusal of licence

(1) The Commission may, after considering an application under Article 11 from a person –

(a) grant a licence to the person; or

(b) refuse to grant a licence.

(2) A licence –

(a) takes effect from a date, no earlier than the date of its grant, specified in the licence; and

(b) expires 5 years after that date, or on any sooner date specified in the licence.

(3) In considering whether to specify a date under paragraph (2)(b), the Commission must take account of its published policy under Article 9.

15 Conditions

(1) A licence is subject to –

(a) the mandatory conditions specified in or under Articles 16 and 17; and

(b) the supplementary conditions imposed by the Commission under Article 18.

(2) An act does not constitute any offence under this Law merely by virtue of constituting a contravention of a condition.

(3) A condition must not be framed or construed in such a way that the licensee contravenes the condition merely by virtue of an act that constitutes an offence under this Law.

16 Mandatory conditions: general

(1) It is a condition of every licence that, to the extent that gambling is conducted under the licence from any premises in Jersey, it must not be conducted from any such premises other than premises that are acceptable to the Commission and are specified in the licence.

(2) It is a condition of every licence that the gambling must not be advertised in any manner that is directed at children or that contravenes any provision of a code of practice that restricts advertising of commercial gambling in relation to children.

(3) It is a condition of every licence that the licensee and any employee or agent of the licensee must, in conducting gambling in or from within Jersey and any related activity, comply with all of the following that apply to any act in the course of such conduct or activity –

(a) the Data Protection (Jersey) Law 2018; and

(b) the anti-money laundering and counter-terrorism legislation. [5]

(4) It is a condition of every licence that the licensee must not allow an individual to perform a function, engage in employment or hold a position, if the licensee knows or can reasonably be expected to know that such performance, engagement or holding is in contravention of a direction that makes a requirement referred to in Article 35(2)(c).

(5) The States may by Regulations specify other mandatory conditions to which every licence is to be subject.

17 Mandatory conditions: supervision

(1) It is a condition of every licence that the licensee must co-operate with the Commission to enable it to carry out reasonable routine examinations of the licensee, including occasional examinations without advance notice.

(2) It is a condition of every licence that the licensee must, if required by the Commission in connection with a routine examination under paragraph (1) –

(a) supply to the Commission information in a format and at times specified by the Commission;

(b) provide answers to questions asked by the Commission;

(c) allow officers or agents of the Commission to enter any premises occupied or used by the licensee for the conduct of gambling or for any related activity; and

(d) allow officers or agents of the Commission, while on the premises in accordance with sub-paragraph (c) –

(i) to search the premises,

(ii) to examine equipment on the premises,

(iii) to take possession of any information or documents on the premises or accessible (electronically or otherwise) from the premises,

(iv) to take, in relation to any such equipment, information or documents, any other steps that may appear to be necessary to preserve them or prevent interference with them,

(v) to require any person present on the premises to provide an explanation of such equipment, information or documents, if the person appears to be in possession of relevant information, and

(vi) to take copies of, or extracts from such documents.

(3) It is a condition of every licence that the licensee must at the request of the Commission, at any reasonable time and whether or not in connection with a routine examination, provide the Commission with the information that the Commission may reasonably require in relation to –

(a) the conduct of gambling, from Jersey or from any other country or territory, by the licensee or by any holding body or subsidiary of the licensee;

(b) the control, by its owners, executive officers and directors, of any body corporate constituting the licensee, or of any holding body or subsidiary of the licensee; or

(c) the regulation, by any body exercising in any country or territory other than Jersey similar functions to those of the Commission, of gambling conducted from such a country or territory by the licensee or by any holding body or subsidiary of the licensee.

(4) It is a condition of every licence that the licensee must provide the Commission with any information in the licensee's possession, if the licensee knows or has reasonable cause to believe that –

(a) the information is relevant to the exercise by the Commission of its functions under this Law in relation to the licensee; and

(b) the withholding of the information is likely to result in the Commission being misled as to any matter which is relevant to and of material significance for the exercise of those functions in relation to the licensee.

(5) It is a condition of every licence that a licensee which is a company must notify the Commission, in relation to that company or to any holding body or subsidiary of that company, of –

(a) any change to the structure of such a company;

(b) any significant changes to the class of the shares in such a company or the rights that attach to them;

(c) the identity of each shareholder in such a company who holds 10% or more of the shares in that company;

(d) any change to the shareholdings in such a company, being changes relating to 10% or more of the issued share capital of that company; and

(e) any appointments, dismissals, resignations or deaths of directors of such a company.

(6) It is a condition of every licence that, if the Commission notifies the licensee that the Commission is interested in the conduct overseas of gambling by the licensee or by a particular holding body or subsidiary of the licensee, the licensee must notify the Commission of –

(a) any investigation into such conduct, being an investigation carried on outside Jersey by a law enforcement agency other than the Commission; and

(b) any changes to the laws of the country or territory in which the gambling is conducted, being laws that relate to that conduct.

(7) Nothing in the mandatory conditions imposed by this Article –

(a) requires the disclosure or production by a licensee to the Commission of information or documents which the licensee would in an action in the court be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the court; or

(b) limits any action that may be taken in respect of a licensee under any of Articles 30, 32 and 33.

(8) A statement made by a person in compliance with a requirement imposed under this Article may not be used by the prosecution in evidence against the person in any criminal proceedings, except proceedings under Article 34.

(9) Nothing in paragraph (8) prevents the Commission using a statement mentioned in that paragraph for the purpose of any of its functions, including the imposition of a civil financial penalty under Article 39.

18 Supplementary conditions

(1) On granting a licence, the Commission must impose supplementary conditions to which the licence is subject, in addition to the mandatory conditions.

(2) After granting a licence, the Commission may amend a supplementary condition to which the licence is subject.

(3) The supplementary conditions imposed –

(a) must include –

(i) each standard supplementary condition applicable to that type of licence under Article 19, unless the Commission considers there is an exceptional reason not to impose that standard condition on that particular licence, and

(ii) conditions, whether standard or otherwise, making provision in relation to the matters set out in Article 20;

(b) may include –

(i) conditions, whether standard or otherwise, making provision in relation to any or all of the matters set out in Article 21, and

(ii) any other condition, whether standard or otherwise, that the Commission considers reasonable to ensure observance of the guiding principles, good practice and this Law; and

(c) may not include any provision –

(i) that is inconsistent with this Law, the Commission Law, or any enactment under either of those Laws, or

(ii) that limits a power of the Commission or a duty of a licensee under a mandatory condition specified in Article 16 or 17.

(4) In imposing or amending supplementary conditions, whether standard or otherwise, the Commission –

(a) must seek to promote observance of the guiding principles, good practice and this Law;

(b) may frame a condition by reference to a code of practice, or so as to require compliance with a provision of such a code; and

(c) may frame a condition so as to require checking or approval by other bodies within or outside Jersey, of staff, equipment, premises or other aspects of the conduct of the gambling.

19 Standard supplementary conditions

(1) The Commission must determine and publish standard supplementary conditions.

(2) In publishing a standard supplementary condition, the Commission must specify whether it is applicable –

(a) to all licences;

(b) to all licences of a specified type; or

(c) to licences determined by some other specified criterion.

(3) The specification referred to in paragraph (2) may be published in the document in which the standard conditions are published, or in the statement of policy published under Article 9.

(4) The Commission must seek to promote, in determining, publishing and imposing standard supplementary conditions –

(a) consistency in the conditions imposed on licences of types that it considers call for similar treatment, particularly in relation to the matters set out in Article 20; and

(b) transparency for applicants, licensees, the staff and customers of licensees, and the public.

(5) The Commission may impose on a licence supplementary conditions that are not standard, whether or not it also imposes standard supplementary conditions.

20 Compulsory matters for supplementary conditions, without compulsory content

(1) The matters in relation to which supplementary conditions (whether standard or otherwise) must make provision are –

(a) the form of gambling, as referred to in Article 3(2)(a), in relation to which services may be provided under the licence;

(b) the restrictions as to involvement of children as customers of the licensee, as employees of the licensee, or in any other way in the provision of the licensee's gambling service;

(c) the systems to be used to carry out checks on the age and vulnerability of customers;

(d) the manner in which, or system by which information is to be made available to customers about –

(i) the availability, under Article 9 of the Commission Law, of assistance with problems related to excessive gambling,

(ii) what may be lost or won in relation to the gambling and the chances of winning or losing,

(iii) the identity of the licensee, and

(iv) the regulation of the gambling by the Commission;

(e) the systems to be used to ensure that persons employed by the licensee in particular capacities are suitable, including the checks to be carried out on the suitability of those persons;

(f) the maintenance of the adequacy of the systems referred to in sub-paragraphs (c), (d) and (e) and in Article 12(3)(i);

(g) whether gambling advertisements may be issued by the licensee or may be issued in relation to gambling conducted by the licensee, including any restriction as to the form, content, timing and location or publication of any permitted advertisement and in particular any step to be taken to reduce the risk of harm to children; and

(h) the nature and use of any equipment, including any equipment outside Jersey, that is to be used in respect of the gambling conducted under the licence and that it is capable of affecting –

(i) the outcome of 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;

(i) whether any connection is permitted between any equipment falling within sub-paragraph (h) and any other equipment;

(j) the requirements as to testing and notification before any changes may be made to that equipment; and

(k) the manner in which, and times at which records, accounts and annual statements are to be made, retained, verified and sent to the Commission.

(2) Nothing in paragraph (1) limits the power of the Commission to determine, in accordance with its duty under Article 18(4)(a), the content of the provision to be made on a matter referred to in that paragraph.

21 Optional matters for supplementary conditions[6]

Without prejudice to the generality of the Commission's power to impose any supplementary condition, the matters in relation to which supplementary conditions may make provision include –

(a) the amounts payable by customers in relation to the gambling and the manner in which they are paid;

(b) the amounts to be paid to customers in relation to the 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 gambling, and the form, location, manner and occasions of the display;

(d) the persons who may supply, install or maintain equipment that may be used in connection with the 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 this Law;

(f) any other matter falling within Article 12(1) or (3); and

(g) the provision and maintenance of a current address at which the licensee agrees to accept service of any documents under this Law, and which is to be taken to be that person's proper address for the purpose of Article 7 of the Interpretation (Jersey) Law 1954.

22 Annual licence fees

(1) The Commission may, in accordance with Articles 46 and 47, determine and publish annual fees in relation to licences.

(2) The Commission may determine different annual fees under paragraph (1) in relation to different types of licence or different circumstances, and may vary or withdraw a published fee.

(3) Paragraphs (4) to (15) apply in relation to a fee published under paragraph (1).

(4) In this Article –

(a) "first year of effect", in relation to a licence, means a period of 12 months after the licence takes effect;

(b) "subsequent year of effect", in relation to a licence, means a period of 12 months after each anniversary of the date on which the licence takes effect, if the licence continues in effect during all or any part of that period.

(5) The licensee must pay to the Commission any published annual fee in relation to the licence within 28 days after the start of each of the first and subsequent years of effect of that licence.

(6) At the end of a 28 day period referred to in paragraph (5), if the licensee has not paid the relevant annual fee in relation to that year of effect, that licence is revoked by virtue of this paragraph.

(7) The revocation of a licence under paragraph (6) does not extinguish the liability to pay the fee.

(8) The relevant annual fee for a licence to which paragraph (9) does not apply is the fee determined and published under Articles 46 and 47 in respect of that licence.

(9) If the Commission determines and publishes, in relation to a type of licence or to specified circumstances, a minimum and maximum fee and gambling yield, with any fee for any band of gambling yields in between, the relevant annual fee for a licence is –

(a) the fee notified by the Commission to the licensee no later than 14 days before the fee is due; or

(b) if the Commission fails to give that notification by that date, the published minimum fee.

(10) The fee notified by the Commission must be the amount referred to in paragraph (11) by reference to –

(a) the Commission's calculation of the gambling yield;

(b) if the licensee has failed to provide evidence of its gambling yield to the satisfaction of the Commission, the Commission's estimate of that yield; or

(c) if paragraph (14) applies, a gambling yield treated –

(i) as exceeding the published maximum gambling yield, or

(ii) as being of such lower amount as the Commission may consider reasonable in the circumstances.

(11) The amount for the purpose of paragraph (10) in relation to a year of effect of a licence is –

(a) the published minimum fee, if there was no gambling yield in the relevant period, or if that yield was less than the published minimum gambling yield;

(b) the relevant published fee, if the gambling yield in the relevant period fell within a band between the published minimum and maximum gambling yields; or

(c) the published maximum fee, if the gambling yield in the relevant period equalled or exceeded the published maximum gambling yield.

(12) 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; and

(b) in relation to the fee for each subsequent year of effect, the year of effect preceding that year.

(13) The 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 licensee as a result of conducting gambling under any licence (whether or not the licence in respect of which the fee is due).

(14) This paragraph applies if –

(a) the Commission notifies a licensee that it believes that the main purpose, or one of the main purposes, of a transaction is the reduction of the liability of that licensee to pay an annual fee; and

(b) the licensee fails within a reasonable time of that notification to satisfy the Commission either –

(i) that the purpose of reducing liability for 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 for an annual fee.

(15) In paragraph (14) a reference to a transaction includes a combination or series of transactions.

PART 3

OTHER RESTRICTIONS ON GAMBLING

Ancillary services

23 Interpretation: ancillary services

(1) For the purposes of this Law a gambling service is an ancillary service if it –

(a) is provided by way of business; and

(b) is not a commercial gambling service.

(2) The States may by Regulations designate as an ancillary service for the purposes of this Law a type of service that –

(a) is related to gambling;

(b) is provided by way of business;

(c) is not provided to any person who gambles otherwise than by way of business; and

(d) does not fall within paragraph (1).

24 Restriction of ancillary services

(1) The States may by Regulations –

(a) prohibit the provision of a type of ancillary service in or from within Jersey;

(b) require a person who provides a type of ancillary service in or from within Jersey to hold a permit from the Commission;

(c) require a person who provides a specified type of ancillary service in or from within Jersey to hold an approval from the Commission.

(2) Regulations under paragraph (1)(b) –

(a) must include, in respect of permits, provisions equivalent to the provisions made in respect of licences by –

(i) Article 9, and

(ii) Articles 43 and 45, in so far as they apply to decisions in respect of licences under any provision for which the Regulations include an equivalent provision in respect of permits;

(b) may include, in respect of permits, provisions equivalent to the provisions made in respect of licences by –

(i) any other provision of Part 2, other than Article 8 or Article 10, and

(ii) any of the provisions of Part 4 that otherwise apply only to licences;

(c) may make equivalent provision for the purposes of sub-paragraphs (a) and (b) –

(i) by substituting references to a permit for references to a licence,

(ii) by substituting references to ancillary services for references to commercial gambling services,

(iii) by substituting references to this Article for references to Article 8 and Article 10, and

(iv) by making any other modification appearing to the States to be necessary in order to adapt the provision to a permit.

(3) Regulations under paragraph (1)(c) –

(a) must include, in respect of approvals, provisions equivalent to the provisions made in respect of licences by Article 9;

(b) may require a person holding or applying for an approval –

(i) to pay a fee, determined and published by the Commission under Articles 46 and 47, and

(ii) to provide to the Commission, at specified intervals, on specified occasions or on demand accounts, reports or other information or evidence in relation to the service provided under the approval; and

(c) may provide for the circumstances in which and manner by which the Commission may refuse or revoke a person's approval, but only if also making provision equivalent to Article 45, modified as necessary, to give a right of appeal against refusal or revocation.

(4) A person is guilty of an offence and liable to imprisonment for a term of 3 years and to a fine, if the person –

(a) provides an ancillary service in contravention of a prohibition under paragraph (1)(a);

(b) provides an ancillary service for which a permit is required under paragraph (1)(b), without holding the required permit; or

(c) holds himself, herself or itself out as providing a service, if the provision of that service would constitute an offence under sub-paragraph (a) or (b).

(5) A person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine, if the person provides an ancillary service for which an approval is required under paragraph (1)(c), without holding the required approval.

Other gambling

25 Interpretation: charitable and membership gambling

(1) For the purposes of this Law a charitable gambling service is a gambling service that –

(a) is provided for the purpose of raising funds for a charity; and

(b) is not provided by a commercial operator.

(2) For the purposes of this Law a membership gambling service is a gambling service that –

(a) is provided –

(i) by a group of persons all of whom are natural persons, or

(ii) on behalf of such a group by a member of the group;

(b) is provided to members of that group and to no other person;

(c) is not provided with a view to the profit of any person other than the members of that group; and

(d) is not provided in relation to commercial gambling; and

(e) is not a charitable gambling service.

(3) The States may by Regulations designate as a charitable or membership gambling service for the purposes of this Law a type of service that –

(a) is related to gambling;

(b) is not provided by way of business;

(c) is provided at a social event or mainly for a charitable, sporting, cultural or other purpose that is neither a purpose of private gain nor of any commercial undertaking;

(d) is not a public lottery for the purpose of Article 27; and

(e) does not fall within paragraph (1) or (2).

(4) In this Article "charity" means a corporation, association, trust or non-profit organization referred to in Article 115(a), (aa) or (ab) of the Income Tax (Jersey) Law 1961.

26 Restriction of charitable and membership gambling services

(1) The States may by Regulations –

(a) prohibit the provision of a type of charitable or membership gambling service in or from within Jersey;

(b) require a person who provides a type of charitable or membership gambling service in or from within Jersey to obtain a permit from the Commission to do so; or

(c) require a person who provides a type of charitable or membership gambling service in or from within Jersey to register with the Commission.

(2) Regulations under paragraph (1)(b) –

(a) must include, in respect of permits, provisions equivalent to the provisions made in respect of licences by –

(i) Article 9, and

(ii) Articles 43 and 45, in so far as they apply to decisions in respect of licences under any provision for which the Regulations include an equivalent provision in respect of permits;

(b) may include, in respect of permits, provisions equivalent to the provisions made in respect of licences by –

(i) any other provision of Part 2, other than Article 8 or Article 10, and

(ii) any of the provisions of Part 4 that otherwise apply only to licences;

(c) may make equivalent provision for the purposes of sub-paragraphs (a) and (b) –

(i) by substituting references to a permit for references to a licence,

(ii) by substituting references to ancillary services for references to commercial gambling services,

(iii) by substituting references to this Article for references to Article 8 and Article 10, and

(iv) by making any other modification appearing to the States to be necessary in order to adapt the provision to a permit.

(3) Regulations under paragraph (1)(c) –

(a) must include, in respect of registrations, provisions equivalent to the provisions made in respect of licences by Article 9;

(b) may require a registered person, or a person applying for registration –

(i) to pay a fee, determined and published by the Commission but not exceeding £50 in any year, or such other amount as may be prescribed by the Minister by Order, and

(ii) to provide to the Commission, at specified intervals, on specified occasions or on demand accounts, reports or other information or evidence in relation to the gambling conducted under the registration; and

(c) may provide for the circumstances in which and manner by which the Commission may refuse or revoke a person's registration, but only if also making provision equivalent to Article 45, modified as necessary, to give a right of appeal against refusal or revocation.

(4) A person is guilty of an offence and liable to imprisonment for a term of 12 months and to a fine, if the person –

(a) provides a type of charitable or membership gambling service in contravention of a prohibition under paragraph (1)(a); or

(b) provides a type of charitable or membership gambling service for the provision of which a permit is required under paragraph (1)(b), without holding the required permit.

(5) A person is guilty of an offence and liable to a fine of level 3 on the standard scale, if the person, without reasonable excuse, provides a type of charitable or membership gambling service, for which registration is required under paragraph (1)(c), without being so registered.[7]

27 Public lotteries

(1) The States may by Regulations require, permit or regulate the provision in or from within Jersey of gambling services in relation to one or more public lotteries.

(2) A public lottery is –

(a) the lottery that, immediately before the commencement of this Article, was regulated by the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975; and

(b) any other lottery specified in Regulations under paragraph (1), being a lottery that is operated for similar purposes in Jersey or in any other of the British Islands.

(3) Regulations under paragraph (1) may –

(a) provide for any provision of this Law to apply, or not to apply, to a public lottery;

(b) include, in respect of a public lottery, a provision that is equivalent to or adapted from any provision made by or under this Law in respect of a licence, permit, approval or registration; and

(c) make any provision similar to any provision made, immediately before their repeal, by the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975 or the Gambling (Channel Islands Lottery) (Jersey) Order 1997, including

provision for contravention of a requirement of the Regulations to be an offence subject to no greater penalty than imprisonment for a term of 12 months and a fine.

(4) Provision that may be made under paragraph (3)(b) includes in particular provision to adapt any function of the Commission under this Law so that the function is exercised in relation to a public lottery by the Minister, by the Public Lotteries Board constituted under the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975, or by any other person.

(5) Notwithstanding the repeal of the Gambling (Jersey) Law 1964, until the commencement of the first Regulations to be enacted under paragraph (1), the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975 and the Gambling (Channel Islands Lottery) (Jersey) Order 1997 are to continue in force as if enacted under paragraph (1).

(6) A person guilty of an offence under the Regulations or Order continued in force by paragraph (5) is liable –

(a) in the case of a first offence, to a fine of level 3 on the standard scale; and

(b) in the case of a second or subsequent offence under the same provision, to imprisonment for a term of 12 months and to a fine.[8]

28 Restriction of other gambling, not being private gambling

(1) This Article applies to any gambling that is not –

(a) commercial gambling;

(b) gambling in relation to which any charitable or membership gambling service is provided by any person;

(c) a public lottery provided for under Article 27; or

(d) private gambling.

(2) For the purposes of this Law gambling is private gambling if –

(a) it does not take place in public and is not advertised;

(b) no gambling service is provided by any person in relation to it; and

(c) all the persons who gamble –

(i) do so otherwise than by way of business, and

(ii) are natural persons falling within paragraph (3).

(3) A person falls within this paragraph if the person is –

(a) an adult; or

(b) a child who gambles with the permission, express or implied, of –

(i) a parent of that child, or

(ii) another adult for the time being responsible for that child.

(4) The States may by Regulations –

(a) prohibit a type of gambling to which this Article applies; or

(b) require a person who engages in or facilitates a type of gambling to which this Article applies to register with the Commission.

(5) Regulations under paragraph (4)(b) –

(a) must include, in respect of registrations, provisions equivalent to the provisions made in respect of licences by Article 9;

(b) may require a registered person, or a person applying for registration –

(i) to pay a fee, determined and published by the Commission but not exceeding £50 in any year, or such other amount as may be prescribed by the Minister by Order, and

(ii) to provide to the Commission, at specified intervals, on specified occasions or on demand accounts, reports or other information or evidence in relation to the person's engagement in or facilitation of the type of gambling; and

(c) may provide for the circumstances in which and manner by which the Commission may refuse or revoke a person's registration, but only if also making provision equivalent to Article 45, modified as necessary, to give a right of appeal against refusal or revocation.

(6) A person is guilty of an offence and liable to a fine of level 3 on the standard scale, if the person, without reasonable excuse –

(a) engages in or facilitates a type of gambling prohibited under paragraph (4)(a); or

(b) engages in or facilitates a type of gambling for which registration is required under paragraph (4)(b), without being registered to do so.

Advertising unlawful gambling

29 Advertising unlawful gambling

(1) For the purposes of this Law a person advertises gambling if the person –

(a) issues an advertisement containing –

(i) an invitation to gamble or to use a gambling service, or

(ii) information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to gambling or to the use of a gambling service; or

(b) enters into an arrangement (whether by way of sponsorship, brand-sharing or otherwise) under which a name is displayed in connection with an event or product, and either –

(i) the provision of facilities for gambling is the sole or main activity undertaken under that name, or

(ii) the manner or context in which the name is displayed is designed to draw attention to the fact that facilities for gambling are provided under that name.

(2) For the purpose of paragraph (1)(a) "issue", in respect of an advertisement, includes any means of bringing to the notice of any person the advertisement, or any invitation or information contained in it.

(3) A person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine, if the person advertises or causes to be advertised in Jersey any gambling the conduct of which –

(a) contravenes –

(i) Article 8, or

(ii) Regulations under Article 24, 26, or 28; or

(b) would contravene such a provision if it were to be conducted as advertised.

(4) For the purpose of paragraph (3)(b), no account is to be taken of any licence, permit or approval or registration unless –

(a) it is in effect for the whole of the period during which the gambling is advertised; and

(b) it is likely to be in effect for the whole of any later period during which the gambling is to be conducted.

(5) A person whose business it is to publish or arrange for publication of advertisements is not guilty of an offence under this Article if the person proves –

(a) that he or she received the gambling advertisement in question for publication in the ordinary course of his or her business;

(b) that the matters contained in the gambling advertisement were not, wholly or in part, devised or selected by him or her or by any person under his or her direction or control; and

(c) that he or she did not know and had no reason for believing that publication of the gambling advertisement would constitute an offence.

(6) For the purposes of this Article –

(a) a gambling advertisement issued or caused to be issued by any person by way of display or exhibition in a public place is to be treated as issued or caused to be issued by him or her on every day on which he or she causes or permits it to be displayed or exhibited;

(b) where a gambling advertisement invites gambling with, or the use of a gambling service provided by a person specified in the advertisement, its issue is to be presumed, unless the contrary is proved, to have been caused by that person.

(7) For the purposes of this Article a gambling advertisement issued outside Jersey is to be treated as issued in Jersey if it is directed to persons in Jersey or is made available to them otherwise than –

(a) in a newspaper, journal, magazine or other publication published and circulating principally outside Jersey;

(b) in a sound or television broadcast transmitted principally for reception outside Jersey; or

(c) through a website not principally intended for use by persons in Jersey.

(8) Nothing in this Article is to be construed as limiting the powers of the Commission to control advertising through conditions in or under Articles 16(2) and 20(1)(g) or directions under Article 35(2)(d).

PART 4

ENFORCEMENT

Powers of entry, search and questioning

30 Notices as to information, documents, equipment and questions: licences

(1) The Commission may, by notice in writing served on a person falling within paragraph (2), require that person –

(a) to provide to the Commission, at such time and place as may be specified in the notice, information and documents of a specified description which the Commission reasonably requires for the performance of its functions;

(b) to make available to the Commission for inspection, at such time and place as may be specified in the notice, equipment of a specified description which the Commission reasonably requires to inspect for the performance of its functions; or

(c) to attend at such place and time as may be specified in the notice and answer questions which the Commission reasonably requires the person to answer for the performance of its functions.

(2) The persons falling within this paragraph are –

(a) a licensee or former licensee;

(b) a person who is or was a principal person in relation to a licensee or former licensee; and

(c) any associate of a person mentioned in sub-paragraph (b).

(3) The power in paragraph (1) may only be exercised in relation to information, documents or questions relating to –

(a) the gambling business of the licensee or former licensee concerned;

(b) the integrity, competence, financial standing or organization of that person, or of any other person falling within paragraph (2) in relation to that person; or

(c) the compliance by any of those persons with –

(i) this Law, the Commission Law or any enactment under either of them,

(ii) a code of practice,

(iii) a condition, or

(iv) a direction.

(4) Where under paragraph (1) the Commission has power to require the provision of any information or document from any person mentioned in that paragraph, the Commission has the like power to require the provision of such information or document from any person who appears to be in possession of it.

(5) A notice under paragraph (1) may require the person concerned to provide to the Commission a report that –

(a) deals with any of the matters mentioned in paragraph (1), or any aspect of those matters, specified in the notice;

(b) is produced by an accountant or other person with relevant professional skill nominated or approved by the Commission, as specified in the notice; and

(c) is in any form specified in the notice.

(6) This Article is without prejudice to any other power of the Commission to require information, documents or answers from a licensee.

31 Notices as to information, documents, equipment and questions: unlicensed gambling

Where the Commission has reasonable grounds to suspect that a person may have contravened Article 8, 24, 26 or 28, the Commission may, by notice in writing served on that person or on any other person appearing to be in possession of the information or documents described in this Article, require the person on whom the notice is served to do any of the following –

(a) to provide to it forthwith or at such time and place as may be specified, information or documents specified in the notice being information or documents which the Commission reasonably requires for the purpose of investigating the suspected contravention;

(b) to make available to the Commission for inspection, forthwith or at such time and place as may be specified in the notice, equipment of a specified description which the Commission reasonably requires to inspect for the purpose of investigating the suspected contravention; or

(c) to attend at such place and time as may be specified in the notice and answer questions which the Commission reasonably requires the person to answer for the purpose of investigating the suspected contravention.

32 Notices as to information, documents, equipment and questions: entry and general

(1) In this Article the relevant Articles means Articles 30 and 31.

(2) Paragraph (3) applies if a notice has been served under either of the relevant Articles.

(3) An officer or agent of the Commission may, at any reasonable time and on producing if required evidence of his or her authority, enter any premises falling within paragraph (4) for the purpose of –

(a) obtaining there the information or documents required by the notice;

(b) inspecting the equipment required by the notice to be made available;

(c) putting the questions to which the notice requires answers; or

(d) exercising the powers conferred by paragraph (6).

(4) Premises fall within this paragraph if they –

(a) are occupied by a person on whom a notice has been served under a relevant Article; or

(b) are any other premises where equipment, information or documents are kept by such a person.

(5) A person (whether a licensee or not) is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if the person, without reasonable excuse obstructs a person exercising a power of entry under paragraph (3).

(6) The powers under the relevant Articles to require a document to be provided include power –

(a) if the document is provided, to retain or take copies of it or extracts from it and to require a person falling within paragraph (7) to provide an explanation of it; and

(b) if the documents are not provided, to require the person to whom the requirement was directed to state, to the best of the person's knowledge and belief, where they are.

(7) A person falls within this paragraph if the person –

(a) provides the document;

(b) appears to be in possession of relevant information;

(c) is or has been an officer, auditor or employee of the licensee or former licensee in question; or

(d) is or has been, by virtue of Article 4(4)(a), a principal person in relation to that licensee or former licensee.

(8) A person other than a licensee is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine if the person, without reasonable excuse fails to comply with a requirement imposed on the person under paragraph (6) or under a relevant Article.

(9) A document retained under a relevant Article may be retained –

(a) for a period of one year; or

(b) if within that period proceedings to which the document is relevant are commenced against any person, until the conclusion of those proceedings.

(10) Where any person from whom provision is required under the relevant Articles claims a lien on a document produced by that person, the provision is without prejudice to the lien.

(11) A person who requires any document retained under a relevant Article for the purpose of the person's business must be supplied on request with a copy as soon as practicable.

(12) Nothing in the relevant Articles requires the disclosure or production by a person to the Commission of information or documents which he or she would in an action in the Court be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.

(13) A statement made by a person in compliance with a requirement imposed under a relevant Article may not be used by the prosecution in evidence against the person in any criminal proceedings, except proceedings under paragraph (8) in relation to that requirement or under Article 34 in relation to that statement.

(14) Nothing in paragraph (13) prevents the Commission using a statement mentioned in that paragraph for the purpose of any of its functions, including the imposition of a civil financial penalty under Article 39.

(15) Without prejudice to its general powers of delegation, the Commission may delegate its functions under the relevant Articles to a duly authorized officer or agent of the Commission.

33 Warrant for search and entry

(1) Paragraph (2) applies if the Bailiff is satisfied by information on oath that there is reasonable cause to suspect that –

(a) there has been a contravention of Article 8 and that –

(i) a specified person has failed in any respect to comply with a notice served on him or her under Article 31,

(ii) any information or documents provided by him or her in response to such a notice are incomplete or inaccurate,

(iii) if such a notice were served, it would not be complied with, or

(iv) documents or equipment to which such a notice might relate would be likely to be removed, tampered with or destroyed;

(b) in relation to a licence –

(i) if notice were served under Article 30 it would not be complied with,

(ii) documents to which such a notice might relate would be likely to be removed, tampered with or destroyed,

(iii) a person on whom such a notice has been served has failed in any respect to comply with that notice,

(iv) a person on whom such a notice has been served has failed to provide complete and accurate information or documents in response to that notice;

(c) a licensee has failed to comply with the condition in Article 17(2)(c);

(d) an officer or agent of the Commission has been or may be obstructed in exercising a power of entry under Article 32(3); or

(e) a provision of a direction has not been complied with in any respect.

(2) The Bailiff may grant a warrant authorizing any police officer, together with any other person named in the warrant to do any one or more of the following –

(a) to enter any premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(b) to search the premises, inspect equipment there and obtain information or take possession of any information or documents appearing to be –

(i) of a type referred to in any of the Articles referred to in paragraph (1),

(ii) related to matters referred to in those Articles, or

(iii) otherwise relevant to the investigation of an offence under this Law;

(c) to take, in relation to any such equipment, information or documents, any other steps which may appear to be necessary to preserve them or prevent interference with them;

(d) to take copies of, or extracts from such documents;

(e) to require a person to provide an explanation of such documents, if the person –

(i) had possession of them,

(ii) appears to be in possession of relevant information, or

(iii) is or has been an officer, auditor or employee of the licensee or other person concerned, or

(iv) is or has been, by virtue of Article 4(4)(a), a principal person in relation to the licensee or other person concerned;

(f) to require any person named in the warrant to answer questions relevant for determining any matter arising in connection with this Law; and

(g) if the information or documents are not provided, to require any person appearing to be in possession of relevant information, to state, to the best of the person's knowledge and belief, where they are and how they may be retrieved.

(3) A warrant under paragraph (1) continues in force until the end of the period of one month beginning with the date on which it was issued.

(4) A document of which possession is taken under paragraph (2) may be retained –

(a) for a period of one year; or

(b) if, within that period, proceedings to which the document is relevant are commenced against any person, until the conclusion of those proceedings.

(5) A person who requires any document of which possession is taken under paragraph (2) for the purpose of his or her business and who requests such document must be supplied with a copy as soon as practicable.

(6) A person (whether a licensee or not) who obstructs the exercise of any power conferred by a warrant issued under this Article or fails to comply with a requirement imposed on him or her by virtue of any of paragraphs (2)(e) to (g) is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

(7) Where a person from whose premises documents are taken under paragraph (2) claims a lien on any such documents, the possession of such documents by the officer or person concerned and by anyone to whom he or she passes them is without prejudice to the lien.

(8) Nothing in this Article requires the disclosure or production by a person of information or documents which the person would in an action in the Court be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in the Court except, if he or she is a lawyer, the name and address of his or her client.

(9) A statement made by a person in compliance with a requirement imposed by virtue of this Article may not be used by the prosecution in evidence against the person in any criminal proceedings except proceedings under paragraph (6) or Article 34.

34 Offences: false information and failure to supply information

A person is guilty of an offence and liable to imprisonment for a term of 5 years and to a fine if –

(a) the person provides information to the Commission, or to any other person entitled to information under this Law –

(i) in connection with an application for a licence,

(ii) in purported compliance with a requirement imposed under this Law or any enactment under this Law, or

(iii) otherwise than as mentioned in clauses (i) and (ii) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Commission for the purpose of exercising its functions under this Law;

(b) that information is false or misleading in a material particular; and

(c) the person knows that, or is reckless as to whether, the information is false or misleading.

Enforcement powers

35 Directions

(1) If it appears to the Commission in relation to a licensee, or to gambling conducted under one or more licences, that –

(a) any requirement in relation to the granting of the licence to the licensee is no longer satisfied;

(b) a person has failed to comply with –

(i) any requirement of or under this Law or the Commission Law, or

(ii) any code of practice that applies to that person;

(c) it is in the best interests of –

(i) creditors of the licensee,

(ii) persons who are or may become customers of the licensee,

(iii) persons who have received or may receive the benefit of services to be provided or arranged by the licensee, or

(iv) one or more licensees;

(d) it is desirable in order to protect the reputation and integrity of Jersey in gambling matters, and in commercial and financial matters as those are affected by commercial gambling;

(e) it is necessary for the promotion of the guiding principles,

the Commission may, whenever it considers it necessary, give, by notice in writing, such directions as it may consider appropriate in the circumstances.

(2) Without prejudice to the generality of paragraph (1), a direction under this Article may –

(a) require anything to be done or not done, or impose any prohibition, restriction or limitation or any other requirement, with respect to any transaction or other act, or to any equipment or assets, or to any other thing whatever;

(b) require that any principal person, or person having functions, in relation to a licensee be removed or removed and replaced by another person acceptable to the Commission;

(c) require that any individual –

(i) not perform a specified function (or any function at all) for,

(ii) not engage in specified employment (or any employment at all) by, or

(iii) not hold a specified position (or any position at all) in the business of,

a specified licensee (or any licensee at all); or

(d) in relation to gambling advertisements –

(i) prohibit the issue, re-issue or continuance of a particular gambling advertisement,

(ii) require that any particular gambling advertisement be modified in a specified manner,

(iii) prohibit the issue, re-issue or continuance of gambling advertisements of any description, or

(iv) require that gambling advertisements of any description be modified in a specified manner.

(3) A direction under this Article may be of unlimited duration or of a duration specified in the notice of the direction.

(4) The power to give directions under this Article includes the power by direction to vary or withdraw any direction, as well as the power to issue further directions.

(5) A notice of a direction under this Article must, in addition to the matters set out in Article 43(2), give particulars of –

(a) the date on which the direction is to have effect;

(b) if Article 44(2) applies, the effect of that Article; and

(c) the right under paragraph (6).

(6) Any person to whom a direction is given under paragraph (1) may apply to the Commission to have it withdrawn or varied, and the Commission must withdraw or vary the direction in whole or in part if it considers that there are no longer any grounds under paragraph (1)(a) to (e) that justify the direction or part of the direction concerned.

(7) A person, other than a licensee, is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine if the person –

(a) contravenes any provision of a direction given under this Article; or

(b) allows an individual to perform a function, engage in employment or hold a position, where the person knows that such performance, engagement or holding is in contravention of a direction that makes a requirement referred to in paragraph (2)(c).

(8) The record of the conviction of any person for an offence under paragraph (7) is admissible in any civil proceedings as evidence of the facts constituting the offence.

36 Injunctions and remedial orders

(1) Paragraph (2) applies if, on the application of the Commission, the Court is satisfied that it is likely that a person will contravene (or continue or repeat a contravention of) –

(a) any of Articles 8, 24, 26 and 28;

(b) a condition;

(c) a direction; or

(d) a provision of an enactment under this Law, if that provision expressly provides that this Article applies to a contravention of the provision.

(2) The Court may, if it thinks fit, issue an injunction restraining the person from committing (or, as the case may be, continuing or repeating) the contravention.

(3) Paragraph (4) applies if, on the application of the Commission, the Court is satisfied that –

(a) a person has committed a contravention of a type referred to in paragraph (1)(a) to (d); and

(b) there are steps which could be taken to remedy the contravention.

(4) The Court may make an order requiring the person, or any other person who appears to the Court to have been knowingly concerned, to take such steps as the Court may direct to remedy the contravention.

37 Intervention

(1) Where, on the application of the Commission, the Court is satisfied in relation to a licensee that –

(a) the licensee –

(i) is not, in terms of Article 12(1)(a), a fit and proper person to conduct gambling which the licensee is purporting to conduct, or is not fit to conduct it to the extent which the licensee is purporting to do, or

(ii) has committed or is likely to commit a contravention of a type referred to in Article 36(1)(a) to (d); and

(b) it is desirable in the interests of –

(i) persons with whom the licensee has gambled or may gamble,

(ii) persons who have entered or may enter into agreements for the provision of gambling services to be provided by the licensee, or

(iii) persons who have received or may receive the benefit of services to be provided or arranged by the licensee,

the Court may, as it thinks just, make an order making the licensee's business subject to such supervision, restraint or conditions, from such time, and for such periods, as the Court may specify, and may also make such ancillary orders as the Court thinks desirable.

(2) If, on an application made under paragraph (1), the Court is satisfied that a person, by entering into any transaction, has contravened any of Articles 8, 24, 26 and 28 the Court may order that person and any other person who appears to the Court to have been knowingly concerned in the contravention to take such steps as the Court may direct for restoring the parties to the position in which they were before the transaction was entered into.

38 Revocation of licence

(1) The Commission may, at any time (subject to Articles 43 to 45), revoke a licence.

(2) The Commission may under paragraph (1) only revoke a licence –

(a) at the request of the licensee;

(b) if the licensee –

(i) has not begun to provide gambling services in or from within Jersey within one year of the date of the grant of the licence,

(ii) ceases to provide gambling services in or from within Jersey, or

(iii) is a company incorporated in Jersey and ceases to provide gambling services;

(c) if the licensee fails to pay any fee due in relation to the licence; or

(d) if the Commission is satisfied that –

(i) one or more of the grounds set out in paragraph (3) are made out;

(ii) a person provided false or misleading information in the application for the licence; or

(iii) the licence was granted in error.

(3) The grounds are that –

(a) a condition of the licence has been contravened;

(b) the licensee has ceased to be a fit and proper person to hold the licence;

(c) the licensee, or an associate or principal person of the licensee, or a person acting on behalf of or under the general supervision of the licensee or of such an associate or principal person, has committed an offence mentioned in Article 12(3)(h);

(d) a person mentioned in sub-paragraph (c) has contravened a requirement imposed under –

(i) a notice under any of Articles 30 to 32,

(ii) a warrant under Article 33,

(iii) a direction under Article 35,

(iv) an injunction under Article 36,

(v) an order for intervention under Article 37, or

(vi) a final notice of a civil financial penalty under Article 39;

(e) gambling has been conducted under the licence in a manner that indicates that the licensee can reasonably be expected, having regard to the policy published under Article 9, to apply for a licence of a different type of licence if any further gambling is to be conducted; or

(f) the continued conduct of gambling under the licence threatens to harm the reputation and integrity of Jersey in gambling matters, or in commercial and financial matters as those are affected by commercial gambling.

39 Civil financial penalties

(1) If the Commission has reason to believe that a licensee has contravened a relevant provision, the Commission may serve on that licensee a notice (a "notice of intent") informing the licensee –

(a) that the Commission proposes to require the licensee to pay a penalty;

(b) of the amount of the proposed penalty;

(c) of the Commission's reasons for believing that the licensee has contravened the relevant provision and that a penalty should be imposed; and

(d) of a period, being not less than 28 days from the day on which the notice of intent is received, within which the licensee may make representations to the Commission.

(2) A relevant provision is any one or more of the following –

(a) a condition of the licence;

(b) a requirement imposed on the licensee by or under any of Articles 30 to 32, other than 32(3); and

(c) a requirement imposed on the licensee by a direction.

(3) The Commission may not serve a notice of intent in respect of a contravention of a relevant provision after the end of the period of 2 years beginning with –

(a) the day on which the contravention occurred or began to occur; or

(b) if later, the day on which the contravention came to the knowledge of the Commission.

(4) After considering any representations made within the period specified under paragraph (1)(d), the Commission may serve on the licensee a notice (a "final notice") requiring the licensee to pay a penalty, as proposed in the notice of intent or as modified in light of any representations, if the Commission –

(a) is satisfied that the licensee contravened the relevant provision; and

(b) is satisfied that the contravention justifies the imposition of the penalty on the licensee, taking into account any other power the Commission could exercise under this Part in relation to the contravention.

(5) A final notice must include information as to –

(a) the reasons for imposing the penalty;

(b) the licensee's right of appeal against the imposition or amount of the penalty under Article 45;

(c) how payment must be made, including the period within which it must be made; and

(d) the power of the Commission to enforce the penalty under paragraph (7)(b).

(6) The Commission, when considering the imposition of or the amount of a penalty, must have regard in particular to –

(a) the seriousness of the contravention of the relevant provision;

(b) whether the contravention has been remedied and whether it is likely to be repeated;

(c) whether the licensee knew or ought to have known of the contravention;

(d) whether the licensee voluntarily reported the contravention;

(e) the nature of the licensee, including in particular the financial resources of the licensee; and

(f) the aim of ensuring that licensees generally cannot expect to profit from contraventions.

(7) A penalty imposed by a final notice –

(a) is payable by the licensee to the Commission;

(b) may be enforced as if it were a debt owed by the licensee to the Commission; and

(c) on receipt by the Commission is to be paid into the consolidated fund.

(8) The Commission must –

(a) prepare a statement setting out the principles to be applied by the Commission in exercising its powers under this Article;

(b) review the statement from time to time;

(c) revise the statement when the Commission thinks it necessary;

(d) as soon as is reasonably practicable –

(i) send the statement, as prepared or revised, to the Minister, and

(ii) publish that statement; and

(e) have regard to the published statement when exercising a power under this Article.

(9) Before preparing or revising a statement under paragraph (8) the Commission must consult the Minister, licensees and such other persons as the Commission thinks appropriate.

(10) Without prejudice to the generality of the Commission's powers under this Article, the principles referred to in paragraph (8)(a) may include a principle that the Commission will impose penalties of specified standard amounts, not exceeding £5,000, for specified types of contraventions or for contraventions in specified circumstances, unless there are exceptional reasons to impose a lower or higher amount.

(11) The amount of a penalty imposed by the Commission may not exceed whichever is the higher of –

(a) £5,000; and

(b) twice the gross win attributable to the contravention of the relevant provision.

(12) The Commission must determine, and set out in the statement published under paragraph (8), the manner in which the gross win is to be calculated for the purposes of paragraph (11)(b), including the principles under which the gross win is to be identified as attributable to a contravention of a relevant provision.

(13) Paragraph (14) applies if –

(a) the Commission determines under Article 11 of the Commission Law that a social responsibility levy is to be paid; or

(b) the Minister has given specific directions under Article 5(2) of that Law.

(14) The Commission must, in making a determination under paragraph (12), take account of the need to avoid unnecessary inconsistency between the manner in which the gross win is to be calculated in any year for the purposes of this Article and for the purposes of the social responsibility levy.

(15) The States may by Regulations –

(a) amend paragraph (7)(c) to provide that, on receipt by the Commission the whole or part of a penalty is not to be paid into the consolidated fund, but is instead to be retained by the Commission, or paid by the Commission to any other person or for any other purpose;

(b) substitute another figure for the figure in paragraph (11)(a);

(c) substitute another proportion of the gross win, for the proportion in paragraph (11)(b);

(d) empower the Minister to direct the Commission as to how it must make its determination under paragraph (12);

(e) provide for any additional procedure to be followed or principle to be applied by the Commission in exercising its powers under this Article.

(16) Regulations under paragraph (15)(a) must include such provision as appears to the States expedient to avoid creating any improper incentive for the Commission to impose civil financial penalties.

(17) Regulations under paragraph (15)(a) may, in particular and without limiting the generality of that sub-paragraph or paragraph (16), provide that the amount not paid into the consolidated fund –

(a) is to be retained by the Commission, but is only to be used to fund a reduction in, or a refund of, fees otherwise payable to the Commission in a particular year, whether in respect of all such fees or only certain fees, such as fees paid by licensees achieving in that year any standards determined by the Commission or complying throughout that year with all relevant requirements of and under this Law and the Commission Law;

(b) is to be calculated by reference to the costs of investigation and enforcement action in relation to the particular penalty or in general, and is to be retained by the Commission; or

(c) is to be paid into a fund, to be established and held by the Commission, from which payments may only be made for specified purposes or in specified circumstances, such as –

(i) to have a reserve against the costs of taking action under this Part or defending court actions brought by licensees,

(ii) for the Commission's social responsibility function under the Commission Law, or

(iii) for either purpose mentioned in clause (i) or (ii), but subject to a limitation that payment may only be made to meet expenses other than the Commission's overheads.

Overseas authorities

40 Co-operation with overseas authority

(1) The following powers are approved powers for the purpose of Article 8 of the Commission Law –

(a) the power to refuse a licence under Article 14;

(b) the power to impose or amend a supplementary condition under Article 18(1) or (2);

(c) any power given to the Commission under a condition;

(d) the powers relating to information, documents and equipment, and to entry to premises, under Articles 30 to 32;

(e) the power to issue directions; and

(f) the power to revoke a licence under Article 38.

(2) The Commission may, to cooperate with an overseas authority within the meaning of Article 8 of the Commission Law, communicate to that authority information that is in the possession of the Commission, whether or not as a result of the exercise of any of the powers listed in paragraph (1).

(3) The Commission's power under paragraph (2) is subject to Article 42(2) and may not be exercised unless the Commission is in addition satisfied that –

(a) the overseas authority will treat the information communicated with appropriate confidentiality;

(b) the exercise of the power has been requested by the overseas authority; and

(c) the request was made only for the purpose of obtaining assistance for that authority in the exercise of one or more of its functions mentioned in Article 8(1) of the Commission Law.

(4) In deciding whether to exercise its power under paragraph (2), the Commission may take into account (among others) the factors set out in Article 8(6) of the Commission Law.

PART 5

MISCELLANEOUS

Information

41 Restricted information

(1) Subject to paragraph (2) and to Article 42, a person who receives information relating to the business or other affairs of any person –

(a) under or for the purposes of this Law; or

(b) directly or indirectly from a person who has so received it,

is guilty of an offence and liable to imprisonment for 2 years and to a fine, if he or she discloses the information without the consent of the person to whom it relates and (where sub-paragraph (b) applies) the person from whom it was received.

(2) This Article does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(3) This Article and Article 42 apply also to information supplied to the Commission for the purposes of its functions under this Law by an overseas authority, within the meaning of Article 8 of the Commission Law.

42 Permitted disclosures

(1) Article 41 does not preclude the disclosure of information –

(a) by the Commission –

(i) to the Viscount,

(ii) to the Comptroller and Auditor General for the purpose of enabling or assisting the carrying out of any of the Comptroller and Auditor General's functions in relation to the Commission, or

(iii) to any person for the purpose of enabling or assisting that person to exercise that person's statutory functions in relation to any person or class of person in respect of whom the Commission has statutory functions;

(b) by or to any person in any case in which disclosure is necessary for the purpose of enabling or assisting any of the following –

(i) the Commission or any person acting on its behalf,

(ii) a person appointed under an enactment by any of the following –

(A) the Commission,

(B) the Court, on the application of the Commission,

(C) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,

to discharge the Commission's functions or that person's functions under this Law or under any other enactment;

(c) by the Commission to an overseas authority under Article 40;

(d) to a person by the Commission showing whether or not any person is licensed under this Law, including the conditions which are attached to the licence;

(e) by the Commission to the public of the name of –

(i) a director of a company that is a licensee,

(ii) a director of a company that is a partner in a partnership that is a licensee,

(iii) a person employed under a contract of service or a contract for services by a licensee, such an employee being so employed in a position in respect of which the Commission has notified the licensee that the Commission regards a person in that position as a principal person by virtue of Article 4(8);

(f) with a view to the investigation of a suspected offence, or institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Law or not;

(g) in connection with any other proceedings arising out of this Law;

(h) by the Commission to the auditor of –

(i) a licensee,

(ii) a former licensee, or

(iii) a person who appears to the Commission to be acting or have acted in contravention of any of Articles 8, 24, 26 or 28,

if it appears to the Commission that disclosing the information would be in the interests of persons who have gambled or may gamble with a person described in any of clauses (i) to (iii);

(i) by the Commission to the Attorney General or to a police officer being information obtained under any of Articles 17 and 30 to 33 or being information in the possession of the Commission as to any matter in relation to which the duties and powers under those Articles are exercisable, but any information so disclosed may only be disclosed by the Attorney General or a police officer for the purposes of an investigation into a suspected offence in Jersey or a prosecution in Jersey or, at the discretion of the Attorney General, a suspected offence or prosecution in a country or territory outside Jersey;

(j) by the Commission to any person acting on behalf of an international body or organization where that body's or organization's functions include the assessment of Jersey's compliance with international standards relating to regulation of gambling and the disclosure is for the purpose of enabling or assisting that body or organization to discharge those functions;

(k) by any of the following persons –

(i) the Commission,

(ii) a person appointed under an enactment by any of the following –

(A) the Commission,

(B) the Court, on the application of the Commission,

(C) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,

to any person or body responsible for setting standards of conduct for any profession where that person or body has powers to discipline persons who fail to meet those standards if it appears to the Commission or the appointed person that disclosing the information would enable or assist the person or body responsible for setting standards to discharge its functions in relation to a person who fails, or is alleged to have failed, to meet those standards.

(2) Information must not be disclosed under paragraphs (1)(a)(ii), (1)(a)(iii), (1)(b), (1)(c), (1)(j) or (1)(k) unless the Commission or person, as the case requires, making the disclosure ("the disclosing party") is satisfied that the person or body to whom or which disclosure is made complies with or will comply with any conditions to which the disclosing party may, in its discretion, subject such disclosure.

(3) The States may by Regulations amend this Article by –

(a) adding further persons or bodies to or by whom disclosure may be made and specifying in each case the purpose for which disclosure of information may be made; and

(b) amending the circumstances in which disclosure may be made to whom or by any person specified in those Articles, including the purposes for which and conditions in which such disclosure may be made.

Notifications and appeals

43 Notification of decisions

(1) For the purpose of this Article, and Articles 44 and 45, a "relevant decision" is a decision of the Commission –

(a) to grant a licence under Article 14;

(b) to refuse to grant a licence under Article 14;

(c) to impose a supplementary condition on a licence, under Article 18(1);

(d) to amend, under Article 18(2), a supplementary condition imposed on a licence;

(e) as to the calculation, estimate or treatment of gambling yield under Article 22(10), if the Commission notifies to a licensee a fee to which Article 22(11)(b) or (c) applies;

(f) to issue a notice under Article 30 or 31, to include a particular requirement in such a notice, or to make a particular requirement under Article 32 in relation to such a notice;

(g) to give a direction under Article 35(1);

(h) to refuse an application under Article 35(6) for a direction to be withdrawn or varied, or to grant such an application only in part;

(i) to revoke a licence under Article 38; or

(j) to serve a final notice under Article 39(4) imposing a civil financial penalty.

(2) Within a reasonable time after making the decision, the Commission must inform the applicant or licensee in writing of –

(a) the decision, unless it is a decision falling within any of sub-paragraphs (e), (f), (g), or (j) of paragraph (1);

(b) if the decision is to grant a licence, the full text of all of the conditions to which the licence is subject; and

(c) the reasons for that decision, unless it is a decision falling within either of sub-paragraphs (a) or (f) of paragraph (1);

(d) if the decision is to take an action described in Article 44(1), the date on which the decision takes effect; and

(e) if there is a right to appeal under Article 45, that right.

(3) In relation to a mandatory or standard condition, the Commission may comply with paragraph (2)(b) by giving written information as to where the licensee may read, on paper or on the internet, the text of the condition.

(4) Paragraph (2)(c) does not require the Commission –

(a) to specify any reason that would in the Commission's opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to a third party;

(b) to specify the same reasons, or reasons in the same manner, when informing different persons of the same decision; or

(c) in the case of the imposition of a standard supplementary condition, to specify any more reason than that it is such a condition and that it is applicable to the licence under the published policy of the Commission.

44 Postponement of effect of decisions

(1) Paragraph (2) applies if the Commission –

(a) amends under Article 18(2), a supplementary condition imposed on a licence;

(b) issues a direction containing a requirement referred to in Article 35(2)(c); or

(c) revokes a licence under Article 38.

(2) The amendment, requirement or revocation does not take effect before whichever is latest of –

(a) one month after the date on which the direction was given, or on which notice in writing was given to the licensee under Article 43 of the amendment or revocation;

(b) such date as is specified in the notice of the amendment, direction or revocation; and

(c) the date on which any appeal under Article 45 against the amendment, direction or revocation is determined by the Court or withdrawn,

unless the licensee, or person on whom the requirement is imposed, agrees with the Commission that it should take effect at an earlier date.

(3) If, on the application of the Commission, the Court is satisfied that it is desirable, in the best interests of persons to whom a licensee has provided or may provide a gambling service, that paragraph (2) should not have effect, or should cease to have effect in a particular case, or that the period specified in paragraph (2)(a) should be reduced, the Court may so order.

(4) An order under paragraph (3) may be made without prior notice to and without hearing the licensee or person concerned.

(5) An order under paragraph (3) has immediate effect, but any person aggrieved by the order may apply to the Court to vary or set aside the order.

(6) In respect of an application under paragraph (5), the Court may make such order in respect of the relevant order under paragraph (3) as it thinks fit.

(7) Except where paragraph (2)(c) has effect, an appeal made under Article 45 in relation to a decision does not postpone the effect of the decision.

45 Appeals

(1) A person aggrieved by a relevant decision, other than a decision to grant a licence, may appeal to the Court on the ground that the decision of the Commission was unreasonable having regard to all the circumstances of the case.

(2) An appeal cannot be made later than one month from the date on which –

(a) notice in writing was given to the person under Article 43(2)(a); or

(b) there was given to or served on the person, the notification under Article 22(9)(a), the notice under Article 30 or 31, the direction under Article 35(1) or the final notice under Article 39(4).

(3) On hearing an appeal the Court –

(a) may confirm, reverse or vary the decision of the Commission, or remit the decision to the Commission; and

(b) may make such order as to the costs of the appeal as it thinks fit.

Fees

46 Power to publish fees

(1) The Commission may determine and publish fees payable to it for –

(a) the performance by the Commission of any of its functions under this Law;

(b) the submission of an application, report or other document to the Commission under this Law; and

(c) the annual continuance of a licence, permit, approval or registration granted under this Law.

(2) The Commission may publish different fees under paragraph (1) in relation to different types of gambling services or licences or different circumstances, and may vary or withdraw a published fee.

(3) The fees determined under paragraph (1) may be by way of –

(a) fixed amounts, which may be different for different cases or classes of case, for different types of gambling service concerned or for different purposes;

(b) where payable under paragraph (1)(a) –

(i) rates representing the reasonable expenses incurred by the Commission during any given unit of time, being a unit of no more than half a day, in performing the function, or

(ii) any combination of the fixed amounts and rates referred to in sub-paragraph (a) and clause (i); or

(c) where Article 22(9) applies, amounts determined in accordance with paragraphs (9) to (15) of that Article.

(4) Where a fee is determined under paragraph (1) the Commission may charge a published additional fee for the late payment of the fee or, in relation to paragraph (1)(b), for the late submission of the report or document.

(5) Where a fee determined under paragraph (1) is payable –

(a) on the submission to the Commission of a report or document, the Commission is to be taken not to have received the document until the fee is paid;

(b) for the performance of a function by the Commission, the Commission need take no action until the fee is paid;

(c) for the annual continuance of a permit, approval or registration granted under this Law, the Commission may revoke that permit, approval or registration if the fee is not paid when due, or if a late fee payable under paragraph (4) is not paid.

(6) Except as provided by this Article and Article 47, nothing in this Article or that Article otherwise limits any right or power the Commission has to charge, recover and receive any fees, charges, costs, proceeds and other amounts.

47 Amount of fees

(1) The fees mentioned in Article 46 are to be retained by the Commission and must be set at such a level as is necessary that, in aggregate they –

(a) raise sufficient income, in combination with any other income of the Commission, to enable the Commission to carry out its functions under this Law and the Commission Law; and

(b) provide a reserve of such amount as the Commission considers necessary for carrying out such functions.

(2) Before publishing a fee mentioned in Article 46, other than where the Commission proposes to charge no fee, the Commission must publish a report that includes –

(a) details of the proposed fee;

(b) a request for comments on the level of the proposed fee; and

(c) a date, that is at least 28 days after the publication of the report, before which those comments may be made to the Commission.

(3) If, by that date or any later date agreed by the Commission, a body that appears to the Commission to be representative of the interests of those who would be required to pay the fee, is unable to agree with the Commission –

(a) a fee for anything for which there is no published fee under Article 46; or

(b) an increase in an existing published fee where the percentage increase in the fee is greater than the percentage increase in the RPI since the fee last took effect in accordance with paragraph (4),

the Commission must request the Bailiff to appoint 3 Jurats to consider if the fee proposed by the Commission is unreasonable having regard to all the circumstances of the case and, in particular, the requirement of paragraph (1).

(4) Where –

(a) paragraph (3) does not apply to a proposed fee; or

(b) Jurats appointed under that paragraph have agreed a fee proposed by the Commission or have proposed some other fee,

the Commission must publish a notice giving details of the fee proposed by it or, in the case where some other fee has been proposed by the Jurats, that fee, and that fee has effect from the date specified in the notice.

(5) In this Article "RPI" means the Jersey Retail Prices Index produced by Statistics Jersey (within the meaning assigned by Article 2 of the Statistics and Census (Jersey) Law 2018).[9]

Gambling contracts enforceable

48 Enforceability of gambling contracts

(1) The fact that a contract relates to gambling does not prevent its enforcement.

(2) Paragraph (1) is without prejudice to –

(a) any rule of law preventing the enforcement of a contract on the grounds of unlawfulness (other than a rule relating specifically to gambling); and

(b) Articles 49 and 50.

49 Sales by lottery void

(1) No action may be brought or maintained to recover anything sold –

(a) by means of any game or lottery; or

(b) by any other means depending on, or to be determined by, chance or lot.

(2) Paragraph (1) –

(a) applies to any land, goods or other thing whatsoever; and

(b) is subject to Article 5(5).

50 Security void by reason of relation to gambling

(1) A security falling within paragraph (2) –

(a) is void; and

(b) is to be treated as given, granted, drawn or entered into or executed for an illegal consideration.

(2) A security falls within this paragraph if the whole or any part of it is for –

(a) any money or money's worth won in any gambling transaction; or

(b) reimbursing or repaying any money that was –

(i) knowingly lent or advanced for such gambling, or

(ii) lent or advanced at the time and place of such gambling to any person gambling at that time and at that place.

(3) In this Article, "security" includes a note, bill, bond or other kind of security.

Offences

51 Cheating

(1) A person commits an offence, and is liable to imprisonment for a term of 5 years and to a fine, if the person –

(a) cheats at gambling; or

(b) does anything for the purpose of enabling or assisting another person to cheat at gambling.

(2) For the purposes of paragraph (1) it is immaterial whether a person who cheats –

(a) improves any person's chances of winning anything; or

(b) wins anything.

(3) Without prejudice to the generality of subsection (1), cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with –

(a) any process, machine or equipment, by which gambling is conducted; or

(b) a real or virtual game, race or other event or process to which gambling relates.

52 Chain-gift schemes prohibited

(1) A person is guilty of an offence and liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale if the person –

(a) invites another to join a chain-gift scheme; or

(b) knowingly participates in the promotion, administration or management of a chain-gift scheme.[10]

(2) An arrangement is a "chain-gift" scheme if –

(a) in order to participate in the arrangement a person must make a payment to one or more other participants (a "joining fee"); and

(b) each person who participates in the arrangement –

(i) is required or invited to invite others to participate, and

(ii) is encouraged to believe that he or she will receive the joining fees, or part of the joining fees, of other participants, to an amount in excess of the joining fee paid by him or her.

(3) For the purposes of paragraph (2) –

(a) "payment" means a payment of money or money's worth, but does not include the provision of goods or services;

(b) it is immaterial whether a payment is made directly or through a person responsible for managing or administering the scheme; and

(c) it is immaterial whether participation in the scheme constitutes gambling.

53 Offences by bodies corporate and others

(1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

(a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or

(b) any person purporting to act in any such capacity,

the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

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

PART 6

FINAL

54 Repeals and amendments of other enactments

(1) The Gambling (Jersey) Law 1964 is repealed.

(2) Paragraph (1) is subject to Article 27(5) in relation to the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975 and the Gambling (Channel Islands Lottery) (Jersey) Order 1997.

(3) The States may by Regulations make such other amendments to any enactment (other than this Law) as appear to the States to be expedient in consequence of the repeal of the Gambling (Jersey) Law 1964 and its replacement by this Law.

55 Transitional

(1) Until the Commission has first published both a statement under Article 9 and standard supplementary conditions under Article 19, it must not grant a licence that, taken with the conditions imposed on the licence, would permit the conduct of any gambling that, immediately before the commencement of this Law, was an unlawful form of gambling.

(2) A preserved permission is a licence, permit or other authority that –

(a) was granted under the Gambling (Jersey) Law 1964;

(b) was in effect immediately before the commencement of this Law; and

(c) permitted the person to whom it was granted to carry on an activity that requires a licence under this Law.

(3) A preserved permission is to be treated after the commencement of this Law as if it were a licence granted under this Law, being a licence that is subject to a condition that no gambling may be conducted under it other than gambling that could

lawfully be conducted under the preserved permission immediately before the commencement of this Law.

(4) The preserved permission is to be treated as expiring on whichever is the sooner of –

(a) the date on which it would have expired but for the commencement of this Law; and

(b) one year after that commencement.

56 Regulations and Orders

An Order or Regulations under this Law –

(a) may contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister or the States, as the case may be, to be necessary or expedient for the purposes of the Order or Regulations;

(b) without prejudice to the application of Article 11(4) of the Interpretation (Jersey) Law 1954, may make different provision for different types of gambling, for different types of gambling service or for different types of licence, permit, approval or registration.

57 Citation

This Law may be cited as the Gambling (Jersey) Law 2012.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Gambling (Jersey) Law 2012	L.14/2012	1 January 2013 (R&O.133/2012)	P.100/2011
Civil Partnership (Consequential Amendments) (No. 2) (Jersey) Regulations 2013	R&O.16/2013	30 January 2013	P.128/2012
Gambling (Amendment of Law) (Jersey) Order 2015	R&O.75/2015	8 July 2015	
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016	P.46/2015 (re-issue)
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)	P.87/2015
Statistics and Census (Jersey) Law 2018	L.8/2018	23 February 2018	P.106/2017
Data Protection (Jersey) Law 2018	L.3/2018	25 May 2018	P.116/2017
States of Jersey (Ministerial Offices – Minister for Sustainable Economic Development) Order 2023	R&O.102/2023	24 November 2023	

◦Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
54(3) to (8)	Spent, omitted
54(9)	54(3)

Table of Endnote References

[1] *Article 1* — *amended by R&O.158/2015, R&O.102/2023*
[2] *Article 4(1)* — *amended by R&O.16/2013*
[3] *Article 5(3)* — *amended by R&O.75/2015*
[4] *Article 12* — *amended by L.3/2018*
[5] *Article 16(3)* — *amended by L.3/2018*
[6] *Article 21* — *editorial change, in sub-paragraph (d), "may used" deleted, "may be used" inserted instead*
[7] *Article 26(5)* — *amended by L.1/2016*
[8] *Article 27(6)* — *amended by L.1/2016*
[9] *Article 47(5)* — *amended by L.8/2018*
[10] *Article 52(1)* — *amended by L.1/2016*