

# STATES OF JERSEY



## **DRAFT GAMBLING (REMOTE GAMBLING DISASTER RECOVERY) (JERSEY) REGULATIONS 200**

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Lodged au Greffe on 31st October 2007  
by the Minister for Economic Development

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STATES GREFFE





Jersey

# **DRAFT GAMBLING (REMOTE GAMBLING DISASTER RECOVERY) (JERSEY) REGULATIONS 200**

## **REPORT**

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### **Background**

On 1st March 2005, the States debated P.62/2004: Modernisation of Jersey's Gambling Legislation. As a consequence of that debate, the States agreed in principle that legislation should be brought forward for approval by the States to allow on-line gambling. These Draft Regulations are the first legislative step to putting that States decision into effect.

As part of the same 2005 debate, the States also agreed that a Gambling Commission should be established in the Island and that the purpose of the Commission should be licensing, regulation, harm reduction/social responsibility and ensuring that gambling issues do not harm the Island's international reputation. To this end, a Shadow Gambling Commission was established by the Minister in December 2006 and draft legislation is currently being drafted in order to give the Commission formal status.

The role of the Shadow Commissioners is to prepare for the transition to a statutory Gambling Commission and to advise the Minister for Economic Development on changes to the Island's gambling laws. The Shadow Commissioners' terms of reference are to ensure that –

- Jersey retains its excellent international reputation as a well regulated jurisdiction;
- Business growth and investment is encouraged; and
- Potential harm is minimised and programmes introduced to protect the young and the vulnerable.

This Report and Proposition is the first developed and submitted in conjunction with the Shadow Gambling Commission.

### **The effect of the Regulations**

This Regulation would allow companies who are licensed to operate remote gambling services in other jurisdictions to place their disaster recovery (DR) or backup systems in Jersey. It will not allow them to operate from Jersey permanently. No company will be able to place equipment or systems in Jersey without the direct approval of the Minister and this will be subject to a strict licensing regime.

'Disaster' is defined in the Regulations, but is regarded as a major disruption that renders the gambling site inoperable from any legitimate cause but which vitally, creates an offence if the disaster has been caused deliberately by the operator. In this way it would not be possible for an operator to 'invoke' its DR provision if, for example, it was facing investigation in another jurisdiction or simply wanted to move for its own purposes.

The Regulation seeks to place two types of control upon companies wishing to have a DR presence in the Island. The first is a series of controls upon local companies that offer hosting facilities. These companies will have a number of duties and obligations placed upon them to show that they are 'fit and proper' and report gambling activity to the Minister to ensure that only licensed activity can take place. The hosting companies will need to be in possession of a 'hosting facilities' licence and in order to receive one will have to undergo a rigorous form of probity investigation. Typically, probity investigations concentrate on criminal and financial 'health' checks both at the company level and of its key staff, Directors and ultimate beneficiaries. In order to ensure that the Minister has full access to all relevant information, the Regulation provides for access to information relating both to the company applying for the licence and its linked or subsidiary companies. Probity is undertaken on a cost recovery

basis and the fees are not refundable.

The second control is on the companies that want to have DR systems in Jersey. These controls are necessarily strong, to ensure that the Minister can have confidence that a licensee can only undertake sanctioned gambling activities. The same probity checks as for a hosting company apply, but the Minister will also have powers to add any other conditions to the licence as he sees fit. In this way an operator will have to comply not only with the conditions of their overseas gambling licence, but also with any additional conditions that the Minister may think are reasonable to ensure the highest standards of regulation and ensure that the Island's international reputation is protected.

An overseas licensee will also have to incorporate locally in order to ensure that there is a local company presence that can be dealt with directly.

Once licensed, a gambling operator may invoke legitimate DR for 3 months. To ensure that the invocation is legitimate, the hosting provider must, within 8 hours, inform the Minister that gambling is taking place. Independently, the operator must also inform the Minister in writing that DR has taken place and provide documentary evidence that the invocation is legitimate. As soon as the Minister has been informed, staff of the department (and thereafter if approved by the States, the Gambling Commission) would attend the hosting provider facility and inspect and verify compliance with the Regulation. Once the legitimacy of the disaster has been verified, the Minister has authority to extend the length of the invocation to a maximum of 9 months.

When the gambling operator is ready to stop its Disaster Recovery operations in Jersey, they must inform the Minister before ceasing operations. The hosting provider must also inform the Minister once the gambling provider has ceased their Disaster Recovery operations in the Island. Failure to notify the Minister is a breach of the Regulations. This provision allows for a managed handover of responsibility from the Jersey regulator back to the original overseas licensing authority.

### **Benefits of the Regulations**

From an economic perspective, internet gambling has brought clear benefit to a number of jurisdictions, particularly the Isle of Man and Alderney, with no adverse effect upon their international reputation or commercial attractiveness. Indeed, the development of electronic gambling services has proven to be of great significance to Guernsey, which hosts the majority of the Alderney licensees, bringing gross value added of several millions of pounds. It has also had the effect of increasing the amount of bandwidth that Guernsey is able to use and, as a direct consequence, lowering the overall cost of data delivery. This is a clear economic benefit that Jersey should seek to achieve as it will benefit both business and consumers.

Jersey will also be keeping to its international commitments by enacting this Regulation. On 31st October 2006 at the International Summit on Remote Gambling held at Ascot, governments agreed that in enacting legislation or regulations in relation to remote gambling the principal and over-riding priorities should be –

- That remote gambling should be conducted responsibly and with safeguards necessary to protect children and vulnerable people;
- That remote gambling should be regulated in accordance with generally accepted international standards to prevent fraud, money laundering and other crime, and should not be permitted to be a source of crime;
- That, where offered, remote gambling should be verifiably fair to the consumer.

Governments also agreed to actively explore the scope for greater international cooperation in the regulation of remote gambling such as –

- Effective measures to protect children and vulnerable people;
- Sharing research and expertise on remote gambling and methods of preventing problem;
- Promoting public awareness of how to gamble responsibly;
- Developing effective licensing regimes;
- Working with the financial sector to secure these priorities.

The passing of these Regulations will be the first step in putting these commitments into effect.

### **Financial/manpower implications**

These Draft Regulations will be at neutral cost to the States in that they are to be met by the prescribed fees. While the work will be undertaken by staff of the Economic Development Department in consultation with the

Shadow Gambling Commission, it is anticipated that this responsibility will be passed to the Commission proper once approved by the States. It will then be for the Commission to ascertain and take responsibility for the costs involved in regulating this sector.

## Explanatory Note

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*Part 1* consists of introductory provisions.

*Regulation 1* sets out interpretative provisions.

“Foreign gambling corporation” is defined so as to refer to the foreign gambling corporation that may apply for a licence to be granted to a company that shall be established in Jersey.

“Jersey remote gambling licence” is defined to refer to licences that may be granted in the future, permitting internet gambling and related forms of “remote” gambling.

“Remote gambling operator’s licence” is a licence that permits its holder to conduct remote gambling from Jersey.

“Remote gambling facility provider’s licence” is a licence, issued to a person in respect of premises, which permits another person, who is the holder of a remote gambling operator’s licence, to conduct remote gambling from the premises.

*Regulation 2* defines what constitutes the conduct of remote gambling for the purposes of these Regulations. Remote gambling is conducted if either a person in Jersey or a foreign corporation offers prizes for a person who conducts gambling from a site in Jersey by operating computer servers, or other devices, by means of which the gambling may be conducted.

*Regulation 3* defines what constitutes an “activating disaster”. The definition is significant because remote gambling may only be conducted under a licence issued under these Regulations when an activating disaster has occurred.

*Part 2* sets out the requirements of the Regulations that relate to the conduct of remote gambling from Jersey under a licence granted under these Regulations.

*Regulation 4* makes lawful remote gambling by a person, or on behalf of a foreign gambling corporation, when there has been an activating disaster that prevents that person or corporation being able to continue to conduct remote gambling from Jersey or a country other than Jersey.

*Regulation 5* sets out how an application may be made for a remote gambling operator’s licence.

*Regulation 6* sets out the fees that are or may be payable in relation to an application for a licence. The fees consist of an initial fee of £5,000 and then a further investigation fee of £5,000 if the first fee does not cover the costs of investigating the application. As many further investigation fees as are necessary to cover the investigation costs may be charged.

*Regulation 7* permits the Minister to grant a remote gambling operator’s licence and specifies that if a foreign gambling corporation applies for a licence, the licence may be granted to a corporation established in Jersey for the purposes of conducting remote gambling.

*Regulation 8* sets out the matters as to which the Minister must be satisfied before granting a remote gambling operator’s licence. It also specifies that a licence grant fee of £5,000 shall be paid on grant of the licence.

*Regulation 9* sets out the form of a remote gambling operator’s licence.

*Regulation 10* sets out the annual fees payable by the holder of a remote gambling operator’s licence. The fee shall be £5,000.

*Regulation 11* enables the Minister to impose conditions on a remote gambling operator’s licence.

*Regulations 12– 17* set out conditions that shall apply to each remote gambling operator’s licence. The conditions are that –

- (a) the licensee shall only conduct remote gambling from premises specified in the licence;
- (b) the licensee shall provide certain information to the Minister relating to the conduct of gambling from the premises, to the corporate structure of the holder of the licence, and any criminal investigations relating to the licensee or any foreign gambling corporation in relation to the person;
- (c) the licensee shall comply with laws relating to money laundering, drug trafficking, data protection and terrorist financing;

- (d) the licensee shall not permit host codes that are part of the electronic device from which remote gambling is being conducted to be hosted on the premises;
- (e) Jersey shall be specified on the relevant gambling site to be the place from which disaster recovery operations relating to remote gambling shall be conducted.

*Part 3* sets out the requirements of the Regulations that relate to the provision of facilities for the conduct of remote gambling from Jersey.

*Regulation 18* sets out how an application may be made for a remote gambling facility provider's licence. (The holder of such a licence provides the facilities in Jersey from which remote gambling may be conducted.)

*Regulation 19* sets out the fees that are payable in relation to an application for a licence. The fees consist of an initial fee of £5,000 and then a further investigation fee of £5,000 if the first fee does not cover the costs of investigating the application. As many further investigation fees as are necessary to cover the investigation costs may be charged.

*Regulation 20* permits the Minister to grant a remote gambling facility provider's licence to a Jersey resident or a company established in Jersey, if the Minister is satisfied the person is a fit and proper person to hold a licence and the relevant fees have been paid. It also specifies that a licence grant fee of £5,000 shall be paid on grant of the licence.

*Regulation 21* sets out the form of a remote gambling facility provider's licence.

*Regulation 22* enables the Minister to impose conditions on a remote gambling facility provider's licence.

*Regulations 23– 27* set out conditions that shall apply to each holder of a remote gambling facility provider's licence. The conditions are that –

- (a) the licensee shall only permit remote gambling to be conducted from premises specified in the licence;
- (b) the licensee shall provide certain information to the Minister relating to the conduct of gambling from the premises and to the corporate structure of the licensee;
- (c) the licensee shall comply with laws relating to money laundering, drug trafficking, data protection and terrorist financing; and
- (d) the licensee shall not permit host codes that are part of the electronic device from which remote gambling is being conducted to be hosted on the premises.

*Part 4* relates to alterations of licences.

*Regulations 28 – 29* specify how certain matters specified on licences, and conditions other than those specified in Regulations 12 – 17 or 23 – 27, may be altered, added to or revoked. A fee of £250 is charged for such an alteration.

*Regulation 30* specifies that the Minister may only alter, add to, or revoke, a condition of his or her own motion if the licensee has been invited to show cause why the alteration, addition or revocation should not occur.

*Part 5* relates to breaches of conditions and the suspension and revocation of licences.

*Regulation 31* specifies that it is an offence to breach a condition of a licence, punishable by a fine of level 4 on the standard scale (£5,000).

*Regulations 32 and 33* set out the circumstances in which licences may be suspended or revoked.

*Regulation 33* also requires a court to revoke a licence granted under these Regulations to a person, if the person is convicted by the court of an offence by or under the Law.

The Minister is required to inform a facility provider of such a conviction in relation to any holder of a remote gambling operator's licence who may use, to conduct remote gambling, the premises provided by the facility provider.

The Minister is also required to inform a remote gambling operator of such a conviction of any holder of a remote gambling facility provider who provides premises that the operator may use to conduct remote gambling.

*Part 6* relates to the conduct of remote gambling under a remote gambling operator's licence.

*Regulation 34* requires the holder of a remote gambling operator's licence to notify the Minister when, an activating disaster having occurred, the licensee has begun to conduct remote gambling under the licence. It is an

offence to fail to do so, punishable by a fine of level 4 on the standard scale (£5,000).

A person may not, unless the period is extended under Regulation 37, conduct remote gambling under the licence for more than 3 months, or more than once in any calendar year. If a person does so, the person ceases to be conducting lawful gambling, and thereby commits an offence against the Law.

*Regulation 35* requires the holder of a remote gambling facility provider's licence to notify the Minister when, an activating disaster having occurred, the holder of a remote gambling operator's licence has begun to conduct remote gambling on the facility provider's premises. It is an offence to fail to do so, punishable by a fine of level 4 on the standard scale (£5,000).

*Regulation 36* enables a daily operation fee to be charged for each day on which remote gambling is conducted under a licence granted under the Regulations. The fee is £250.

*Regulation 37* enables the extension of a period during which remote gambling may be conducted under a remote gambling operator's licence. No such period may be extended if the total period under which remote gambling may be conducted in Jersey under the licence would be more than 9 months.

*Regulation 38* specifies that it is an offence for a person to conduct remote gambling under a licence granted under these Regulations, if the Jersey remote gambling licence, or the foreign authorization, in relation to the person, is suspended or revoked. The offence is punishable by a fine of level 4 on the standard scale (£5,000).

The Regulation also specifies that if notice is given by the Minister to a remote gambling operator of the suspension or revocation of the licence of the facility provider from whose premises the operator conducts gambling, it is an offence for the operator not to cease to conduct remote gambling from those premises for the duration of the suspension, or, in the case of revocation, permanently. The offence is punishable by a fine of level 4 on the standard scale (£5,000).

Similarly, if notice is given by the Minister to a remote gambling facility provider of the revocation of the licence of the remote gambling operator who may conduct remote gambling from the facility provider's premises, it is an offence for the facility provider to permit remote gambling to be conducted from those premises by the operator for the duration of the suspension, or, in the case of revocation, permanently. The offence is punishable by a fine of level 4 on the standard scale (£5,000).

*Regulation 39* requires a remote gambling operator to notify the Minister when he or she ceases to conduct remote gambling under his or her remote gambling operator's licence. Failure to do so is an offence, punishable by a fine of level 4 on the standard scale (£5,000).

*Regulation 40* requires a remote gambling facility provider to notify the Minister when remote gambling ceases to be conducted from the provider's premises. It is an offence to fail to do so, punishable by a fine of level 4 on the standard scale (£5,000).

*Part 7* deals with the regulation of remote gambling during the period in which remote gambling under a remote gambling operator's licence is conducted from Jersey.

*Regulation 41* places a duty on the Minister to supervise the conduct of remote gambling under licences granted under these Regulations, and to hear promptly, and conduct further investigations in relation to, any complaint received in relation to the conduct of such gambling.

*Regulation 42* enables the Minister to issue compliance directions, being directions that require an action specified in the direction to be taken or not to be taken. It is an offence to fail to comply with such a direction, punishable by a fine of level 4 on the standard scale (£5,000).

*Part 8* grants rights of appeal to the Royal Court against decisions of the Minister under the Regulations relating to the grant of licences and the issue of compliance directions to a person. A person may further appeal to the Court of Appeal against a decision of the Royal Court.

*Part 9* contains miscellaneous provisions

*Regulation 46* makes it an offence to provide false or misleading information under these Regulations. The offence is punishable by a year's imprisonment and a fine.

*Regulation 47* specifies the name by which the Regulations may be cited and that they shall come into operation 7 days after they are made.

*The Schedules* set out the form of applications under the Regulations.









Jersey

# DRAFT GAMBLING (REMOTE GAMBLING DISASTER RECOVERY) (JERSEY) REGULATIONS 200

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###### *Conditions of remote gambling facility provider’s licence*

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FORM OF APPLICATION FOR REMOTE FACILITY PROVIDER'S LICENCE





Jersey

# DRAFT GAMBLING (REMOTE GAMBLING DISASTER RECOVERY) (JERSEY) REGULATIONS 200

*Made*

*[date to be inserted]*

*Coming into force*

*[date to be inserted]*

**THE STATES**, in pursuance of Articles 3, 9 and 10 of the Gambling (Jersey) Law 1964<sup>[1]</sup>, have made the following Regulations –

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## PART 1

### INTRODUCTORY PROVISIONS

#### 1 Interpretation

(1) In these Regulations, unless the context otherwise requires –

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

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

“drug trafficking” has the meaning assigned by the Drug Trafficking (Jersey) Law 1988<sup>[2]</sup>;

“electronic device” includes a computer server;

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

“foreign gambling corporation” in relation to a person to whom a remote gambling operator’s licence has been granted in accordance with Regulation 7(4), means the person who applied for the remote gambling operator’s licence under Regulation 5;

“gambling site” means –

- (a) an internet site;
- (b) an email address;
- (c) a television broadcasting site; and
- (d) any other device or location, including an electronic location, that is prescribed under paragraph (2);

“holding company”, in relation to a person, has the same meaning as it has in Article 4 of the Banking Business (Jersey) Law 1991<sup>[3]</sup> and includes, in respect of a person to whom a licence has been granted in accordance with Regulation 7(4), the foreign gambling corporation in relation to that person;

“home country or territory”, in relation to –

- (a) a person to whom a Jersey remote gambling licence has been granted, means Jersey; or
- (b) a person to whom a remote gambling operator’s licence has been granted in accordance with Regulation 7(4), means the country or territory in which is situated the relevant supervisory authority that issued the foreign authorization in respect of the foreign gambling corporation in relation to the person;

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

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

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

“Law” means the Gambling (Jersey) Law 1964<sup>[4]</sup>;

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

“licence” means a licence, granted under these Regulations, that is in force;

“money laundering” has the meaning assigned by Regulation 2 of the Community Provisions (Wire Transfers) (Jersey) Regulations 2007<sup>[5]</sup>;

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

“remote gambling” means any betting, gaming, wagering or entering into a lottery, which takes place by way of an electronic communication at or from a gambling site;

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

“remote gambling operator’s licence” means a licence, granted under Regulation 7, that is in force;

“subsidiary company”, in relation to a person, has the same meaning as it has in Article 4 of the Banking Business (Jersey) Law 1991<sup>[6]</sup>;

“terrorist financing” has the meaning assigned by Regulation 3 of the Community Provisions (Wire Transfers) (Jersey) Regulations 2007<sup>[7]</sup>.

- (2) The Minister may, by Order, prescribe –

- (a) a device; or
- (b) a location, which may be an electronic location and may be identifiable only by an electronic designation,

to be a gambling site for the purposes of these Regulations.

## 2 Meaning of “conducts remote gambling”

- (1) In these Regulations, a person conducts remote gambling if –

- (a) the person, or a foreign gambling corporation in relation to the person, offers prizes, at a gambling site, that may induce, or are intended to induce, another person to provide, directly or indirectly, a consideration to engage in remote gambling with the person; and
- (b) the person operates any electronic device connected to that gambling site, by means of which, in whole or in part, the remote gambling may be conducted.



- (2) In these Regulations, a person conducts remote gambling from Jersey if one or more of the electronic devices by means of which, directly or indirectly, the remote gambling is conducted by the person in accordance with paragraph (1) are situated in Jersey.
- (3) A person who holds a remote gambling facility provider's licence and who provides, in Jersey, premises –
  - (a) that are specified on a remote gambling operator's licence; and
  - (b) on which is situated an electronic device by means of which remote gambling is conducted,shall not be taken to offer prizes or conduct remote gambling by reason only of operating that device, in relation to that data, on behalf of the holder of the remote gambling operator's licence.

### **3 Meaning of “activating disaster”**

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

## **PART 2**

### **REMOTE GAMBLING OPERATOR'S LICENCES**

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

### **4 Remote gambling under licence lawful**

- (1) Remote gambling shall be lawful if it is conducted by a person –
  - (a) under and in accordance with a remote gambling operator's licence granted to the person; and
  - (b) at any time during the period beginning from the day on which an activating disaster in relation to the licence occurs until the end of the period specified by the person in a notice under Regulation 34(5)(b) or of the period extended by the Minister by notice to the person under Regulation 37.
- (2) A person may, whether as principal or as a servant or agent of any other person –
  - (a) conduct business in the course of which a gambling transaction is negotiated or entered into

with, or on behalf of, a person (whether or not present in Jersey), in the course of conducting remote gambling that is lawful under paragraph (1); and

- (b) permit a person (whether or not present in Jersey), to participate in a form of gambling lawfully conducted, organized or promoted by that person or that other person, as the case may be, in accordance with these Regulations.

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

- (1) A person may apply to the Minister for a remote gambling operator's licence.
- (2) An application under paragraph (1) shall be in the form set out in Schedule 1.
- (3) An application under paragraph (1) for a remote gambling operator's licence by a person shall be accompanied by either –
  - (a) proof that there is a Jersey remote gambling licence in relation to the person and that the licence has not been suspended; or
  - (b) proof that there is a foreign authorization in respect of the person.
- (4) If an application under paragraph (1) is accompanied by proof of the kind referred to in paragraph (3) (b), the application shall be accompanied by –
  - (a) a statement whether, to the best of the person's knowledge and belief, the person, or any holding company or subsidiary company in relation to the person, is being investigated by a law enforcement agency of any other country or territory, and if so, the reasons why he, she or it is being investigated; and
  - (b) details of all laws of the person's home country or territory that relate to data protection and to the prohibition or regulation of gambling, money laundering, drug trafficking and terrorist financing.
- (5) The Minister may –
  - (a) request a person who has made an application under paragraph (1) to provide to the Minister further information or documents in relation to the application; and
  - (b) refuse to grant a remote gambling operator's licence to the person unless and until the information or documents are provided.

## **6 Fees for application and further investigation**

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

## **7 Grant of remote gambling operator's licence**

- (1) The Minister may, after receiving an application under Regulation 5 from a person, grant, or, by notice in writing to the person, refuse to grant, a remote gambling operator's licence to the person.
- (2) If the applicant for a licence under Regulation 5 is not –
  - (a) a natural person who is a Jersey resident; or

(b) a body corporate that is incorporated under the Companies (Jersey) Law 1991<sup>[8]</sup>,  
the Minister may determine that he or she shall, if the applicant nominates a body corporate that complies with paragraph (3) and if he or she is satisfied that the requirements of Regulation 8 are complied with, grant the licence to that body corporate.

- (3) A body corporate complies with this paragraph if –
- (a) it is incorporated under the Companies (Jersey) Law 1991 for the purposes of conducting remote gambling operations under a remote gambling operator’s licence; and
  - (b) it is a subsidiary company that is wholly owned by the person who has made the application for the licence.
- (4) If the Minister has made a determination under paragraph (2) in relation to a body corporate that complies with paragraph (3) and the Minister is satisfied that the requirements of Regulation 8 are complied with, the Minister shall grant a remote gambling operator’s licence to that body corporate.

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

- (1) The Minister may only grant a remote gambling operator’s licence to a person under Regulation 7 if the Minister is satisfied that–
- (a) the person, and the foreign gambling corporation, if any, in relation to the person, is a fit and proper person to conduct remote gambling;
  - (b) the person shall ensure that remote gambling is conducted fairly and that appropriate protection shall be provided by the person to players who may participate in remote gambling with the person;
  - (c) the Minister is satisfied that the person shall establish and maintain, during any period in which remote gambling is conducted from the premises specified in the licence, a system for monitoring the conduct of remote gambling from the premises;
  - (d) the grant of the licence to the person shall not be harmful to Jersey’s reputation as a financial centre;
  - (e) there is either a Jersey remote gambling licence in relation to the person, or a foreign authorization in respect of the foreign gambling corporation in relation to the person, and the licence or authorization has not been suspended;
  - (f) where the Minister has sent a notice in writing to the person under Regulation 6(2), the person has, within 30 days of the Minister sending the notice, paid the further investigation fee; and
  - (g) a licence grant fee of £5,000 has been paid in relation to the application.
- (2) Without limiting the matters that the Minister may take into account in determining whether to grant a remote gambling operator’s licence to a person under Regulation 7, the Minister shall take into account –
- (a) the financial standing of –
    - (i) the person,
    - (ii) if the person is a company, any director of the company, and
    - (iii) any holding company, or subsidiary company, in respect of the person, including the financial stability of, and the adequacy of the capital base of, the person, director, holding company and subsidiary company;
  - (b) whether the person, and any holding company, or subsidiary company, in respect of the person, conducts remote gambling operations and associated operations in a fair manner;
  - (c) the adequacy of the systems of the person that are in place in relation to remote gambling to ensure that the gambling is conducted fairly and securely by the person, including but not limited to whether the systems are adequate to ensure that –

- (i) each player's funds are separately recorded from each other player's funds and from the funds of the person,
  - (ii) players' winnings are paid out accurately and promptly,
  - (iii) accurate recording of deposits and wagers are kept,
  - (iv) the data provided by players is protected from use by the company or use by other persons (whether or not under the authority of the person) for purposes that are not authorized by the player or that are not authorized under the Data Protection (Jersey) Law 2005<sup>[9]</sup>,
  - (v) persons may, at their own request or otherwise, be excluded from remote gambling on the gambling site,
  - (vi) any funds of a player that are held by the person and that have not been used by the player are kept separately from the funds of the person, may not be used by the person, any creditors of the person or any holding company or subsidiary company in relation to the person, and are refundable to the player at the player's request,
  - (vii) whether the requirements, under any laws of Jersey, or of the person's home country or territory, for measures to be taken to ensure data protection or to prevent money laundering, drug trafficking or terrorist financing are, or are likely to be, fulfilled;
- (d) whether the person, or any holding company, or subsidiary company, in respect of the person, has been subject to adverse findings by a law enforcement agency situated in another country or territory or has been found guilty of an offence against the laws of Jersey or that country or territory relating to the regulation of gambling, data protection, money laundering, drug trafficking or terrorist financing;
  - (e) if there is a foreign gambling corporation in relation to the person, the extent to which the laws of the person's home country or territory are adequate to ensure that the foreign gambling corporation is regulated in its remote gambling operations in that country or territory in a manner that ensures that the reputation of Jersey as a financial centre would not be harmed by authorizing the person to conduct remote gambling operations from Jersey; and
  - (f) whether the imposition of conditions by the Minister may ensure that the purposes of any of sub-paragraphs (a) to (e) may be fulfilled.

## **9 Form of remote gambling operator's licence**

- (1) A remote gambling operator's licence shall be in the form approved by the Minister.
- (2) A remote gambling operator's licence shall specify –
  - (a) the unique identifier of the gambling site and, if it has a name, the name of the gambling site;
  - (b) the address of the premises from which remote gambling is authorized to be conducted under the licence; and
  - (c) the name of the person who holds a remote gambling facility provider's licence in relation to those premises.
- (3) A remote gambling operator's licence that is issued to a person in accordance with Regulation 7(4) shall specify the name of the foreign gambling corporation, if any, in relation to the person.

## **10 Annual fees**

- (1) A person to whom a remote gambling operator's licence is granted shall, within 30 days of the grant of the licence, pay to the Minister an annual fee of £5,000 in relation to the licence.
- (2) A person to whom a remote gambling operator's licence is granted shall pay to the Minister the annual fee in relation to the licence within 30 days after the end of each 12 month period for which the licence is in force.

- (3) If the annual fee is not paid by the holder of a remote gambling operator's licence within the period specified in paragraph (1) or (2) the licence shall, if it is still in force, be revoked by virtue of this paragraph.

*Conditions of remote gambling operator's licence*

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

- (1) A remote gambling operator's licence that is granted to a person who holds a Jersey remote gambling licence shall be subject to –
  - (a) the conditions specified in Regulations 12 to 17;
  - (b) the conditions, if any, specified under paragraph (3); and
  - (c) the conditions, if any, specified on the Jersey remote gambling licence, to the extent that they are not inconsistent with the Law, these Regulations or the conditions referred to in subparagraphs (a) and (b).
- (2) A remote gambling operator's licence that is granted to a person in accordance with Article 7(4) shall be subject to –
  - (a) the conditions specified in Regulations 12 to 17;
  - (b) the conditions, if any, specified under paragraph (3); and
  - (c) the conditions, if any, specified on the foreign authorization in respect of the foreign gambling corporation in relation to the person, to the extent that they are not inconsistent with the Law, these Regulations or the conditions referred to in subparagraphs (a) and (b).
- (3) The Minister may specify on a remote gambling operator's the conditions to which the licence shall, in addition to the conditions referred to in paragraph (1)(a) or (c) or (2)(a) or (c), as the case may be subject.
- (4) The Minister may, in granting a licence, impose a condition that varies a condition that is specified on a licence in accordance with paragraph (1)(c) or (2)(c).
- (5) The Minister shall not impose a condition on a licence under paragraph (3), or impose a condition on a licence under paragraph (4) that varies a condition on a licence, if the condition, or the condition as so varied, would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulation 12 to 17.

**12 Condition of licence – use of premises provided by facilities provider**

It shall be a condition of a remote gambling operator's licence that remote gambling conducted under the licence shall only take place in Jersey from premises specified in the licence, which are premises in relation to which a person specified on the licence holds a remote gambling facility provider's licence.

**13 Condition of licence – access to and provision of information**

- (1) It shall be a condition of a remote gambling operator's licence that a holder of the licence shall, at all reasonable times, at the request of the Minister, provide the Minister with the information that the Minister may reasonably require in relation to –
  - (a) the control, by its owners, executive officers and directors, of any company constituting the person, or any holding company, or subsidiary company, in relation to the person;
  - (b) the conduct of remote gambling operations, from Jersey or from any other country or territory, by the person or any foreign gambling corporation, or subsidiary company, in relation to the person;
  - (c) the conduct of any other businesses also owned by the person or any holding corporation, or

subsidiary company, in relation to the person; and

(d) the regulation, by the relevant supervisory authorities of the person's home country or territory, of remote gambling conducted by any foreign gambling corporation in relation to the person.

(2) It shall be a condition of a remote gambling operator's licence that the holder of the licence shall permit the Minister –

(a) to inspect, at any time, the premises specified in the licence;

(b) while on the premises in accordance with sub-paragraph (a), to inspect and make, free of charge, records of any documents situated on the premises, and to open (including by force, if necessary) any container on the premises and to search its contents; and

(c) to access any electronic information stored on an electronic device, or by any other means, on the premises and to make, and take away, copies of such information.

#### **14 Condition of licence – regulatory compliance**

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

#### **15 Condition of licence – notifications**

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

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

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

(c) the identity of each shareholder in the company who holds 5% or more of the shares in the company;

(d) any change to the shareholdings in the company, which changes relate to 5% or more of the issued share capital of the company; and

(e) any appointments, dismissals, resignations or deaths of directors of the holding company.

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

(a) any change to the company structure of any holding company, or subsidiary company, in relation to the person;

(b) any significant changes to the class of the shares in the holding company, or subsidiary company, or the rights that attach to them;

(c) the identity of each shareholder in the holding company who holds 5% or more of the shares in the holding company or subsidiary company;

(d) any change to the shareholdings, which changes relate to 5% or more of the issued share capital of the holding company or subsidiary company; and

(e) any appointments, dismissals, resignations or deaths of directors of the holding company or subsidiary company.

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

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

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

**16 Condition of licence – no hosting of source codes etc.**

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

**17 Condition of licence – gambling sites**

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

## **PART 3**

### **REMOTE GAMBLING FACILITY PROVIDER'S LICENCES**

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

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

- (1) A natural person who is a Jersey resident, or a body corporate that is incorporated under the Companies (Jersey) Law 1991, may apply to the Minister for a remote gambling facility provider's licence.
- (2) An application under paragraph (1) shall be in the form set out in Schedule 2.
- (3) An application under paragraph (1) for a remote gambling facility provider's licence shall be accompanied by –
  - (a) proof that the person is entitled to occupy, for a period of not less than 7 years, the premises specified in the application as the place from which, under the licence, remote gambling may be conducted by the holder of a remote gambling operator's licence; and
  - (b) proof that the person shall have access to appropriate technology and telecommunications infrastructure.
- (4) The Minister may –
  - (a) request a person who has made an application under paragraph (1) to provide to the Minister further information or documents in relation to the application; and
  - (b) refuse to grant a remote gambling facility provider's licence to the person unless and until the

information or documents are provided.

## **19 Fees for application and further investigation**

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

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

- (1) The Minister may, after receiving an application under Regulation 18 from a person, grant, or, by notice in writing to the person, refuse to grant, a remote gambling facility provider's licence to the person.
- (2) The Minister may only grant a remote gambling facility provider's licence to a person under paragraph (1) if –
  - (a) the Minister is satisfied that the applicant is a fit and proper person to hold a licence;
  - (b) the Minister is satisfied that the person is a resident of Jersey or a company incorporated under the Companies (Jersey) Law 1991;
  - (c) where the Minister has sent a notice in writing to the person under Regulation 19(2), the person has, within 30 days of the Minister sending the notice, paid the further investigation fee; and
  - (d) a licence grant fee of £5,000 has been paid.

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

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

### *Conditions of remote gambling facility provider's licence*

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

- (1) The Minister may specify on a remote gambling facility provider's licence the conditions to which the licence shall, in addition to the conditions specified in Regulations 23 to 27, be subject.
- (2) The Minister shall not, under paragraph (1), impose a condition imposed on a licence if the condition would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations 23 to 27.
- (3) Without limiting the type of conditions that the Minister may specify on a licence, he or she may specify the type of gambling that may be conducted under the licence.



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

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

### **24 Condition of licence – provision of information to Minister**

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

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

### **25 Condition of licence – regulatory compliance**

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

### **26 Condition of licence – notifications**

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

- (2) It shall be a condition of a remote gambling facility provider's licence that a holder of the licence which is a company shall notify the Minister of –
  - (a) any change to the company structure of any holding company, or subsidiary company, in relation to the person;
  - (b) any significant changes to the class of the shares in the holding company or subsidiary company or the rights that attach to them;
  - (c) the identity of each shareholder in the holding company, or subsidiary company, who holds 5% or more of the shares in the holding company or subsidiary company;
  - (d) any change to the shareholdings, which changes relate to 5% or more of the issued share capital of the holding company or subsidiary company; and
  - (e) any appointments, dismissals, resignations or deaths of directors of the holding company or subsidiary company.
- (3) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall notify the Minister –
  - (a) if he or she suspects that remote gambling is being conducted, by the holder of a remote gambling operator's licence specified on the remote gambling facility provider's licence, otherwise than in accordance with the conditions of the remote gambling operator's licence;
  - (b) if he or she suspects that money laundering, drug trafficking, or terrorist financing, is being facilitated by remote gambling from the premises; and
  - (c) if he or she becomes aware of any events, or any actions, or failures to take action, by the holder of the remote gambling operator's licence that, in the opinion of a reasonable person with knowledge of remote gambling –
    - (i) ought to be notified to a person regulating remote gambling, and
    - (ii) may effect the perception of the probity or integrity of the person or the holder of the remote gambling operator's licence specified on the person's licence.
- (4) It shall be a condition of a remote gambling facility provider's licence that the holder of the licence shall –
  - (a) establish and maintain, during any period in which remote gambling is conducted from the premises specified in the licence, a system for monitoring the conduct of remote gambling from the premises; and
  - (b) provide to the Minister, within each 28 day period that the premises are used for the conduct of remote gambling, reports as to the information obtained by the operation of that system.

**27 Condition of licence – no hosting of source codes etc.**

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

**PART 4**

## ALTERATION OF CONDITIONS AND SPECIFICATIONS

### *Alternation of conditions of licence and specifications*

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

- (1) The holder of a licence may apply to the Minister for the alteration or revocation of a condition to which the licence is subject in accordance with Regulation 11(1)(b) or (c), 11(2)(b) or (c) or 22(1).
- (2) An application under paragraph (1) shall be accompanied by a condition alteration fee of £250.
- (3) The Minister may, by notice in writing to the holder of a licence who has made an application under paragraph (1) –
  - (a) alter or revoke a condition of the licence in accordance with the application; or
  - (b) refuse to alter or revoke a condition of the licence in accordance with the application.
- (4) The Minister shall not alter a condition under paragraph (3) if the condition, as so altered, would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations 12 to 17 or 23 to 27.

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

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

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

- (1) The Minister may, of his or her own motion, by notice in writing to the holder of a licence, alter, add to, or revoke, the conditions of the licence, other than the conditions imposed under Regulations 12 to 17 or 23 to 27.
- (2) The Minister shall not, under paragraph (1), alter or add to the conditions of a licence if the condition as so altered, or that is added, would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations 12 to 17 or 23 to 27.

- (3) The Minister may not, under paragraph (1), alter a condition of a licence, or add a condition to a licence, unless –
  - (a) the holder of the licence has been notified of the intended alteration or addition;
  - (b) the holder of the licence has been invited to show cause to the Minister why the condition should not be altered as intended or added to the licence; and
  - (c) 14 days have expired since the notice was given under subparagraph (a) and the holder of the licence has been given an opportunity to show cause to the Minister why the condition should not be altered as intended or added to the licence.
- (4) The Minister may, by notice in writing to the holder of a remote gambling operator's licence, revoke –
  - (a) the specification on the licence under Regulation 9 of the name of the holder of the remote gambling facility provider's licence under which remote gambling may be conducted by the holder of the remote gambling operator's licence; and
  - (b) the specification on the licence of the premises from which remote gambling may be conducted by the holder of the licence,
 if the remote gambling facility provider's licence has been revoked.

## **PART 5**

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

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

- (1) The holder of a licence shall not contravene a condition of the licence.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 or the standard scale.

#### **32 Suspension of licence**

- (1) The Minister may, by notice in writing to the holder of a licence, suspend the licence for a period, or until the occurrence of an event, specified in the notice.
- (2) The Minister may under paragraph (1) only suspend a licence granted to a person if the Minister is satisfied that –
  - (a) the person, a foreign gambling corporation in relation to the person or a person acting on behalf of or under the general supervision of the person or foreign gambling corporation, has committed an offence against –
    - (i) the Law or these Regulations, or
    - (ii) the law of Jersey, or of another country or territory, relating to money laundering, drug trafficking, terrorist financing or data protection, or an offence of which dishonesty is a component;
  - (b) a condition of the licence has been breached;
  - (c) a compliance direction has not been complied with;
  - (d) there is evidence that the person has ceased to be a fit and proper person to hold the licence; or
  - (e) the continued conduct of operations under the licence threatens to harm the reputation of Jersey in relation to financial matters.
- (3) If a remote gambling operator's licence has been suspended under paragraph (1), the Minister shall as soon as practicable, notify the holder of the remote gambling facility provider's licence whose

name is specified on the remote gambling operator's licence that –

- (a) the licence has been suspended and the period of the suspension; and
  - (b) the holder of the remote gambling facility provider's licence is not authorized, during the period of the suspension, to permit or enable the holder of the remote gambling operator's licence to conduct remote gambling.
- (4) If a remote gambling facility provider's licence has been suspended under paragraph (1), the Minister shall, as soon as practicable, notify the holder of any remote gambling operator's licence on which is specified the name of the holder of the remote gambling facility provider's licence that –
- (a) the licence has been suspended and the period of the suspension; and
  - (b) the holder of the remote gambling operator's licence is not authorized, during the period of the suspension, to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.

### **33 Revocation of licence**

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

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

## PART 6

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

#### **34 Operator to notify Minister when remote gambling from Jersey begins**

- (1) The holder of a remote gambling operator's licence is not authorized to conduct remote gambling from Jersey under the licence unless there is an activating disaster in relation to the licence.
- (2) If –
  - (a) there is an activating disaster in relation to a remote gambling operator's licence; and
  - (b) the holder of the licence begins to conduct remote gambling operations from Jersey under the licence,
 the holder of the licence shall, within 3 working days, notify the Minister.
- (3) A notice for the purposes of paragraph (2) given by a holder of a licence shall specify–
  - (a) the nature of the activating disaster; and
  - (b) the time and date on which the holder of the licence began to conduct remote gambling operations from Jersey under the licence.
- (4) A holder of a licence who contravenes paragraph (3) commits an offence and shall be liable to a fine of level 4 on the standard scale.
- (5) Within 5 working days after the holder of a remote gambling operator's licence begins to conduct remote gambling operations from Jersey, or a longer period, if any, that the Minister specifies in relation to the person, the person shall –
  - (a) provide to the Minister, in documentary form, further details and evidence that the activating disaster referred to in the notice the person has given for the purposes of paragraph (2) has occurred; and
  - (b) notify the Minister, in writing, of the period for which the person intends to conduct remote gambling operations from Jersey under the licence.
- (6) The period for the purposes of paragraph (5) shall be a period not more than 3 months beginning on the day on which the person began to conduct remote gambling operations from Jersey under the licence.
- (7) A person who contravenes paragraph (5) commits an offence and shall be liable to a fine of level 4 or the standard scale.
- (8) If remote gambling has, under a remote gambling operator's licence, been conducted from Jersey under the licence for a period in a calendar year (including a period that has been extended under Regulation 37), remote gambling may not be conducted under the licence for a further period in that

calendar year.

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

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

### **36 Daily operation fee**

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

### **37 Extension of active licence period**

- (1) A holder of a remote gambling operator's licence who is conducting remote gambling from Jersey under the licence may, in writing, request the Minister to extend the period for which remote gambling may be conducted by him or her from Jersey under the licence.
- (2) A request under paragraph (1) shall specify the grounds on which the extension of the period is sought.
- (3) The Minister shall, within 30 days after receiving a request under paragraph (1) from a holder of remote gambling operator's licence, by notice in writing to the person –
  - (a) extend the period for which remote gambling may be conducted from Jersey under the licence; or
  - (b) refuse to so extend the period.
- (4) The Minister may, under paragraph (3), extend the period for which remote gambling may be conducted from Jersey under the licence –
  - (a) for the same period as the period sought in the request to which the extension relates, or for a

shorter or longer period; but

- (b) in any case, so that the total period for which remote gambling may be conducted from Jersey under the licence (including under the extension) shall not be more than 9 months.
- (5) The Minister shall not, under paragraph (3), extend the period for which remote gambling may be conducted from Jersey under the licence if the Minister is of the opinion that –
- (a) the grounds constituting the activating disaster in relation to the licence have ceased to exist or have altered sufficiently for there to no longer be a need for remote gambling to be conducted from Jersey by the person; and
  - (b) there are no other grounds that are sufficient to constitute an activating disaster in relation to the licence and that are likely to constitute an activating disaster for the period of the extension.

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

- (1) If –
- (a) there is a Jersey remote gambling licence, or a foreign gambling corporation, in relation to a person to whom a licence has been granted under these Regulations; and
  - (b) the Jersey remote gambling licence, or the foreign authorization in respect of the foreign gambling corporation, is subsequently suspended or revoked,
- the licence granted under these Regulations is, by virtue of this paragraph, suspended for the same period, or revoked, as the case may be.
- (2) If a notice is given under Regulation 32(3) to the holder of a remote gambling facility provider's licence, he or she is not authorized, during the period of the suspension referred to in the notice, to permit or enable the holder of the remote gambling operator's licence specified in the notice to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.
- (3) If a notice is given under Regulation 32(4) to the holder of a remote gambling operator's licence, he or she is not authorized, during the period of the suspension referred to in the notice, to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence specified in the notice.
- (4) If a notice is given under Regulation 33(6) to the holder of a remote gambling facility provider's licence, he or she is not authorized to enable the former holder of the remote gambling operator's licence specified in the notice to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.
- (5) If a notice is given under Regulation 33(7) to the holder of a remote gambling operator's licence, he or she is not authorized to conduct remote gambling from any premises owned or leased by the former holder of the remote gambling facility provider's licence specified in the notice.
- (6) A person who contravenes any of paragraphs (2) to (5) commits an offence and shall be liable to a fine of level 4 on the standard scale.

### **39 Operator to notify Minister when remote gambling from Jersey ceases**

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



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

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

## **PART 7**

### **REGULATION OF REMOTE GAMBLING**

**41 Remote gambling during activation period**

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

**42 Minister may issue compliance directions**

- (1) The Minister may, by notice in writing, issue a compliance direction to –
  - (a) the holder of a remote gambling operator's licence who is conducting in Jersey remote gambling; or
  - (b) the holder of a remote gambling facility provider's licence whose name is specified on a remote gambling operator's licence, if remote gambling is being conducted in Jersey by the holder of the remote gambling operator's licence.
- (2) A compliance direction may require the holder of a licence to whom the direction is issued to take an action, or not to take an action, specified in the direction.
- (3) A compliance direction shall not be inconsistent with a provision of the Law or these Regulations or a condition of the licence.
- (4) A holder of a licence who contravenes a compliance direction issued to him or her commits an offence and shall be liable to a fine of level 4 on the standard scale.

## **PART 8**

### **APPEALS AGAINST DECISIONS**

**43 Right of appeal to Royal Court**

- (1) A person who has applied for a licence under these Regulations may appeal to the Royal Court against a decision by the Minister under Regulation 7 or 20 to refuse to grant the licence to the person.
- (2) A person who has been granted a licence under these Regulations may appeal to the Royal Court

against a decision by the Minister under Regulation 11(3) or 22(1) to impose a condition on a licence granted to the person.

- (3) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the Minister –
  - (a) under Regulation 28 to refuse to alter the conditions imposed on the licence;
  - (b) under Regulation 30 to alter a condition imposed on, or to add a condition to, the licence; or
  - (c) under Regulation 32 or 33 to suspend or revoke the licence.
- (4) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the Minister under Regulation 29 to refuse to alter any matter specified on the licence under Regulation 9 or 21.
- (5) A person may appeal to the Royal Court against a decision by the Minister under Regulation 42 to issue a compliance direction to the person.

#### **44 Appeals**

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

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

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

## **PART 9**

### **CONCLUDING PROVISIONS**

#### **46 False information**

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

#### **47 Citation and commencement**

- (1) These Regulations may be cited as the Gambling (Remote Gambling Disaster Recovery) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force 7 days after they are made.



## **SCHEDULE 1**

(Regulation 5(2))

### **FORM OF APPLICATION FOR REMOTE GAMBLING OPERATOR'S LICENCE**

1. Name of applicant.
2. Residential address or registered office of applicant.
3. Name, telephone number and email address of principal person who may be contacted in relation to this application.
4. Name of foreign gambling corporation, if any, in relation to the applicant.
5. Designation of URL or unique identifier of each gambling site from which a customer may, under the Jersey remote gambling licence or the foreign authorization in relation to the person, engage in remote gambling conducted by the person.
6. Address of the premises from which it is intended that remote gambling shall be conducted under the licence.
7. Name of person who holds a remote gambling facility provider's licence in relation to the premises specified under item 6.
8. Names and registered offices of any holding company or subsidiary company in relation to applicant.

## **SCHEDULE 2**

(Regulation 18(2))

### **FORM OF APPLICATION FOR REMOTE FACILITY PROVIDER'S LICENCE**

1. Name of applicant.
2. Residential address or registered office of applicant.
3. Name, telephone number and email address of principal person who may be contacted in relation to this application.
4. Address of the premises from which it is intended that remote gambling shall be conducted by holder of remote gambling operator's licence.
5. Names and registered offices of any holding company or subsidiary company in relation to applicant.

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- [1] *chapter 11.300*
- [2] *chapter 08.580*
- [3] *chapter 13.075*
- [4] *chapter 11.300*
- [5] *R&O.88/2007*
- [6] *chapter 13.075*
- [7] *R&O.88/2007*
- [8] *chapter 13.125*
- [9] *chapter 15.240*