

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

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

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

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

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

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

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

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

~~“electronic device” includes a computer server;~~ “conduct”, in relation to remote gambling, and to premises or to a country or territory, has the meaning given by Regulation 2;

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

“customer” has the meaning given by Regulation 2;

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

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

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

“foreign gambling corporation” in relation to a person to whom a ~~remote gambling~~ disaster recovery 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);~~

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

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

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

“holding company”, in relation to a person, has the same meaning as it has in Article 4 of the Banking Business (Jersey) Law 1991 and includes, in respect of a person to whom a disaster recovery operator’s licence has been granted ~~in accordance with Regulation 7(4)~~ the foreign gambling corporation in relation to that person;

“home country or territory”, in relation to –

(a) a Jersey person ~~to whom a Jersey remote gambling licence has been granted~~, means Jersey; or

(b) a person to whom a ~~remote gambling~~disaster recovery 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;~~ "Jersey person" means a person who is –

(a) a natural person who is ordinarily resident in Jersey;

(b) a body incorporated in Jersey;

(c) a partnership formed in Jersey under customary law, in which at least one of the partners falls within sub-paragraph (a) or (b); or

(d) a partnership registered under an enactment of Jersey;

"Law" means the Gambling (Jersey) Law 1964;

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

~~"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;

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

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

~~"remote gambling" means any betting, gaming, wagering or entering into a lottery, which takes place~~has the meaning given by ~~way of an electronic communication at or from a gambling site~~Regulation 2;

"remote gambling facility provider's licence" means a licence, granted under Regulation 20, that is in force;

"remote gambling operator's licence" means a general remote operator's licence, ~~granted under Regulation 7, that is in force; or a disaster recovery operator's licence;~~

"remote site" has the meaning given by Regulation 2;

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

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

~~(2) 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;~~

2 Meaning of "remote gambling" and related expressions

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

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

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 inaccessible to customers a remote site from~~ through which ~~the services may be accessed by players, those customers gamble remotely, in such a way that customers are unable to be accessed by players~~ access a service provided by the holder of the licence in conducting remote gambling; and
 - (c) any natural or man-made disaster that affects or may affect any of the systems or objects referred to in sub-paragraph (a), which is of a sufficient scale to cause actual damage to those objects or that renders the objects unable to be accessed or used by the employees or agents of the holder of the licence, or of the foreign gambling corporation in relation to the holder of the licence, for the purposes of conducting remote gambling.
- (2) For the purposes of paragraph (1), a major disruption, event, or man-made disaster shall not constitute an activating disaster if it has been intentionally caused for the purpose of enabling activities under a remote gambling operator’s licence to be activated.

PART 2

REMOTE GAMBLING OPERATOR’S LICENCES

Grant of remote gambling operator’s licences

4 Remote gambling under licence lawful

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

5 Application for remote gambling operator’s licence

- ~~(1) A person may apply to the Minister for a remote gambling operator’s licence.~~
- (1) An application may be made to the Commission –
 - (a) by a Jersey person, for a general remote operator’s licence; or
 - (b) by a body incorporated outside Jersey, for a disaster recovery operator’s licence.
 - (1A) A body applying for a disaster recovery operator’s licence shall nominate, as the proposed holder of the licence, a company that –
 - (a) has been incorporated under the Companies (Jersey) Law 1991 for the purpose of conducting remote gambling under the licence; and
 - (b) is a subsidiary company that is wholly owned by the body making the application.
 - (1B) A body may apply for a disaster recovery operator’s licence before the incorporation of a subsidiary to be nominated under paragraph (1A), if the application includes proposals for the subsidiary, in which case the Commission may issue a provisional determination that –
 - (a) is based on the applicant’s proposals for the subsidiary; and
 - (b) is to be reviewed after the applicant has complied with paragraph (1A), before the Commission determines the application under Regulation 7.
 - (2) An application under paragraph (1) shall be in the form ~~set out in Schedule 1~~ published by the Commission for the type of operator’s licence for which the application is made.
 - (3) An application under paragraph (1) for a remote gambling operator’s licence by a person shall be accompanied by either –
 - (a) proof that ~~there~~the person is a Jersey person, if the application is for a general remote gambling operator’s 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: if the application is for a disaster recovery operator’s licence.
 - (4) ~~If an~~An application ~~under paragraph (1) is accompanied by proof of the kind referred to in paragraph (3)(b), the application~~ a person for a disaster recovery operator’s licence 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~~Commission may –
 - (a) request a person who has made an application under paragraph (1) to provide to the ~~Minister~~Commission 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~~Commission may, by notice in writing to a person who has made an application under Regulation 5, require the person to pay a further investigation fee of £5,000.
- (3) The ~~Minister~~Commission may only issue a notice to a person under paragraph (2) if the ~~Minister~~Commission is of the opinion that the amount of the first stage fee paid by the person will not cover the costs of making all the investigations necessary to determine whether to grant a remote gambling licence in accordance with the application by the person.
- (4) The ~~Minister~~Commission may issue as many further notices to a person under paragraph (2) as the ~~Minister~~Commission 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 application is for a licence under Regulation 5 is not –~~
 - ~~(a) a natural person who is a Jersey resident; or~~

~~to take effect on the expiry under Regulation 7(2)(b) – a body corporate that is incorporated under the Companies (Jersey) Law 1991, of another licence, the Commission –~~

~~the Minister may determine that he or she shall, if the applicant nominates a body corporate that complies with paragraph (3) and if he or she is satisfied that the requirements of Regulation 8 are or shall be complied with, grant the licence to that body corporate.~~
- ~~(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 – (a) shall take account of its duty and power under Regulation 8(3);~~
 - ~~(b) shall reduce the first stage fee if it considers that the full amount is not needed to cover the costs referred to in paragraph (3), whether because any investigation does not need to be repeated or for any other reason; and~~
 - ~~(c) shall not issue a notice under paragraph (2) unless it considers that there has been a significant change, since the grant of the expiring licence, requiring further investigation.~~

7 Grant or refusal of 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 are or shall be complied with, the Minister shall grant a remote gambling operator's licence to that body corporate.~~
- (1) The Commission may, after considering an application under Regulation 5 from a person –

- (a) grant a general remote operator's licence to the person;
- (b) grant a disaster recovery operator's licence to the company nominated by the person under Regulation 5(1A); or
- (c) by notice in writing to the person, setting out reasons, refuse to grant a remote gambling operator's licence.

(2) A licence granted under this Regulation –

- (a) shall take effect from a date, no earlier than the date of its grant, specified in the licence; and
- (b) shall expire 3 years after that date.

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

- (1) The ~~Minister~~Commission may only grant a remote gambling operator's licence to a person under Regulation 7 if the ~~Minister~~Commission is satisfied that –
 - (a) the person, and the foreign gambling corporation, if any, in relation to the person, is a fit and proper person to conduct remote gambling;
 - (b) the person shall ensure that remote gambling is conducted fairly and that appropriate protection shall be provided by the person to ~~players who may participate in remote gambling with~~customers of 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 the person is a Jersey ~~remote gambling licence in relation to the~~ person; or there is a foreign authorization in respect of the foreign gambling corporation in relation to the person, ~~and the licence or~~being an authorization that 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;~~
 - (ea) where the application is for a disaster recovery operator's licence, the remote gambling proposed to be conducted from Jersey under the licence shall be limited to periods that do not (by their length, frequency, pattern or otherwise) indicate that the proposed holder can reasonably be expected, having regard to the policy published under paragraph (1C), to apply instead for a general remote operator's licence;
 - (f) where the Commission has sent a notice in writing to the person under Regulation 6(2), the person has, within 30 days of the Commission sending the notice, paid the further investigation fee.
- (1A) The Commission shall not grant a remote gambling operator's licence unless it is satisfied that an independent person approved by the Commission has tested each item of equipment, including software, that may affect –
 - (a) the outcome of remote gambling under the licence; or

- (b) whether the person will conduct the gambling in accordance with the guiding principles and in compliance with any relevant code of practice.
- (1B) Paragraph (1A) does not apply to any item in respect of which the Commission is satisfied that such testing is not necessary, whether in general or in the circumstances of the application.
- (1C) The Commission shall publish a statement of the Commission's policy as to the circumstances (including as to testing) in which, and any forms of gambling for which, it generally will, or will not, grant –
- (a) a disaster recovery operator's licence; or
- (b) a general remote operator's licence.
- (2) Without limiting the matters that the Commission may take into account in determining whether to grant a remote gambling operator's licence to a person under Regulation 7, the Commission shall take into account –
- (a) the financial standing, including the financial stability and the adequacy of the capital base, of the person and of any foreign gambling corporation in relation to the person;
- (b) whether the person, and any ~~holding company, or subsidiary company, in respect of the foreign gambling corporation in relation to the~~ person, conducts remote gambling operations and associated operations in a fair manner;
- (c) the adequacy of the ~~person's systems of the person (including equipment and software), and of any testing carried out on those systems,~~ that are in place in relation to remote gambling to ensure that the ~~gambling is conducted fairly and securely by the person~~ person conducts the gambling in accordance with the guiding principles and in compliance with any relevant code of practice, including but not limited to whether the systems are adequate to ensure that –
- (i) each ~~player's~~customer's funds are separately recorded from each other ~~player's~~customer's funds and from the funds of the person,
- (ii) ~~players'~~customers' winnings are paid out accurately and promptly,
- (iii) accurate recording of deposits and wagers are kept,
- (iv) the data provided by ~~players~~customers is protected from use by the ~~company~~person or use by other persons (whether or not under the authority of the person) for purposes that are not authorized by the ~~player~~customer or that are not authorized under the Data Protection (Jersey) Law 2005,
- (v) persons may, at their own request or otherwise, be excluded from ~~remote~~or limited as to gambling ~~on~~remotely as customers of the ~~gambling site~~person,
- (vi) any funds of a ~~player~~customer that are held by the person and that have not been used by the ~~player~~customer are kept separately from the funds of the person, may not be used by the person, any creditors of the person or any holding company or subsidiary company in relation to the person, and are refundable to the ~~player~~customer at the ~~player's~~customer'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, foreign gambling corporation in relation to the person,~~ has been subject to adverse findings by a law enforcement agency situated in another country or territory or has been found guilty of an offence against the laws of Jersey or that country or territory relating to the regulation of gambling, data protection, money laundering, drug trafficking or terrorist financing;
- (da) whether there is any other person in relation to whom the Commission should enquire into any of the matters referred to in sub-paragraphs (a), (b) or (d) because that person appears likely to be able to influence, whether as an employee, director, officer, member, partner, holding company, subsidiary company, relative or otherwise –
- (i) the behaviour of the holder of the licence, or of a foreign gambling corporation in relation to that holder, or

- (ii) the outcome of remote gambling conducted under the licence;
- (e) if there is a foreign gambling corporation in relation to the person, the extent to which the laws of the person's home country or territory are adequate to ensure that the foreign gambling corporation is regulated in its remote gambling operations in that country or territory in a manner that ensures that the reputation of Jersey as a financial centre would not be harmed by authorizing the person to conduct remote gambling operations from Jersey; ~~and~~
- (f) whether the imposition of conditions by the ~~Minister~~Commission may ensure that the purposes of any of sub-paragraphs (a) to (e) may be fulfilled; ~~and~~
(g) its policy published under paragraph (1C).
- (3) If the application is for a licence to take effect on the expiry under Regulation 7(2)(b) of another licence, the Commission –
 - (a) shall consider whether it holds any relevant information previously obtained by it in connection with the expiring licence; and
 - (b) may rely on that information unless it has any reason to believe that the information may not still be current.

9 Form of remote gambling operator's licence

- (1) A remote gambling operator's licence shall be in the form approved by the ~~Minister~~Commission.
- (2) A remote gambling operator's licence shall specify –
 - (a) each remote site through which remote gambling may be conducted under the licence, including a unique identifier of the gambling site and, if it has a name, given to the name of the gambling site;
 - (b) the address of the premises in Jersey 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~~any premises;
 - ~~(3) A remote gambling operator's licence that is issued to in Jersey on which a person in accordance with Regulation 7(4) controlling device may be operated under the licence; and~~
 - (d) the conditions imposed on the licence by and under these Regulations.
- (2A) Paragraph (2)(c) applies irrespective of whether the holder of the remote gambling operator's licence is the same person as the holder of the remote gambling facility provider's licence or a different person.
- (3) A disaster recovery operator's licence shall specify the name of the foreign gambling corporation; 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.~~ (1) In this Regulation (and in Regulation 21A) –
 - (a) "first year of effect", in relation to a licence, means a period of 12 months after the licence takes effect;
 - (b) "second year of effect" and "third year of effect", in relation to a licence, mean a period of 12 months after the first and second anniversaries respectively of the date on which the licence takes effect, if the licence continues in effect (irrespective of any suspension)

during all or any part of that period.

- (2) The holder of a remote gambling operator's licence shall pay to the Commission the relevant annual fee in relation to the licence within 28 days after the start of each of the first, second and third years of effect of that licence.
- (3) At the end of a 28 day period referred to in paragraph (2), if the holder of a licence has not paid the relevant annual fee in relation to that year of effect, that licence is revoked by virtue of this paragraph.
- (4) The revocation of a licence under paragraph (3) does not extinguish the liability to pay the fee.
- (5) The relevant annual fee for a disaster recovery operator's licence is £5,000.
- (6) The relevant annual fee for a general remote operator's licence is –
 - (a) the fee notified by the Commission to the licence holder no later than 14 days before the fee is due; or
 - (b) if the Commission fails to give notification by that date, £35,000.
- (7) The fee notified by the Commission shall be the amount referred to in paragraph (8) by reference to –
 - (a) the Commission's calculation of the remote gambling yield;
 - (b) if the licence holder has failed to provide evidence of its remote gambling yield to the satisfaction of the Commission, the Commission's estimate of the remote gambling yield;
or
 - (c) if paragraph (11) applies, a remote gambling yield treated –
 - (i) as exceeding £6,500,000, or
 - (ii) as being of such lower amount as the Commission may consider reasonable in the circumstances.
- (8) The amount for the purpose of paragraph (7) in relation to a year of effect of a licence is –
 - (a) £35,000, if there was no remote gambling yield in the relevant period, or if that yield was less than £1,000,000;
 - (b) £70,000, if the remote gambling yield in the relevant period equalled or exceeded £1,000,000 but was less than £6,500,000; or
 - (c) £140,000, if the remote gambling yield in the relevant period equalled or exceeded £6,500,000.
- (9) The relevant period is –
 - (a) in relation to the fee for the first year of effect, the 12 month period before the start of that year;
 - (a) in relation to the fee for the second year of effect, the first year of effect; and
 - (a) in relation to the fee for the third year of effect, the second year of effect.
- (10) The remote gambling yield in a relevant period is the excess, if any, of the sums received in that period from customers, over the sums paid in that period to customers, by the holder of the licence as a result of conducting remote gambling under any general remote operator's licence (whether or not the licence in respect of which the fee is due).
- (11) This paragraph applies if –
 - (a) the Commission notifies a licence holder that it believes that the main purpose, or one of the main purposes, of a transaction is the reduction of the liability of that licence holder to pay an annual fee; and
 - (b) the licence holder fails within a reasonable time of that notification to satisfy the Commission either –
 - (i) that the purpose of reducing liability to an annual fee was not the main purpose or one of the main purposes for which the transaction was effected, or
 - (ii) that the transaction was a bona fide commercial transaction and was not designed for the purpose of reducing liability to an annual fee.

(12) In paragraph (11) a reference to a transaction includes a combination or series of transactions.

Conditions of remote gambling operator's licence

11 ~~Licence may be made~~ Operator's licence to be 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~~ to 15; and
 - (b) the supplementary conditions, if any, specified imposed under paragraph (3), and Regulation 11A.
- ~~(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 sub-paragraphs (a) and (b).~~
- (2) A ~~remote gambling~~ disaster recovery operator's licence ~~that is granted to a person in accordance with Article 7(4)~~ shall in addition be subject to –
- ~~(a) the conditions specified in Regulations 12 to 17;~~
 - ~~(b) the conditions, if any, specified under paragraph (3); and~~
 - ~~(c) to 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 sub-paragraphs (a) and (b), holding the licence.~~
- ~~(3) The Minister may specify on a remote gambling operator's the conditions to which the licence shall, in addition to the conditions referred to in paragraph (1)(a) or (c) or (2)(a) or (c), as the case may be, be subject.~~
- ~~(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 (3) On granting a disaster recovery operator's licence, the Commission may substitute another condition for, or disapply, a condition that would, but for this paragraph and paragraph (5), be imposed by paragraph (2).~~
- (4) The Commission shall not substitute or disapply a condition under paragraph (3) unless it considers that it is reasonable to do so in order to –
- (a) make appropriate provision for a difference between Jersey and the home country or territory of the foreign gambling corporation;
 - (b) avoid an inconsistency referred to in paragraph (5); or
 - (c) promote observance of the guiding principles or good practice.
- (5) Paragraph (2) does not apply to the extent that a condition specified on the foreign authorization is inconsistent with –
- (a) the Law;
 - (b) these Regulations; or 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 (c) a condition specified in any of Regulations 12 to 15.~~

- (6) The Commission shall not substitute an amended condition under paragraph (3), or impose a supplementary condition under Regulation 11A, if the condition would be inconsistent with –

- ~~(a) the licence, which are premises in relation to which a person specified on the licence holds a remote gambling facility provider's licence. Law:~~
- (b) these Regulations; or
- (c) a condition specified in any of Regulations 12 to 15.

11A Supplementary conditions

- (1) On granting a remote gambling operator's licence, the Commission shall impose supplementary conditions to which the licence shall be subject.
- (2) The Commission shall determine and publish standard supplementary conditions.
- (3) In imposing supplementary conditions, and in determining standard supplementary conditions, the Commission shall seek to promote observance of the guiding principles, good practice and these Regulations.
- (4) Supplementary conditions, whether standard or otherwise –
- (a) may apply to all forms of remote gambling or to all licences or may vary by form of remote gambling or licence or other circumstance; and
- (b) may be framed by reference to a code of practice, and may require compliance with a provision of such a code.
- (5) The Commission shall impose on a licence the standard supplementary conditions applicable to that licence, unless the Commission considers there is an exceptional reason not to do so for a particular licence.
- (6) The Commission may impose on a licence supplementary conditions that are not standard, whether or not it also imposes standard supplementary conditions.
- (7) The supplementary conditions imposed on a licence –
- (a) shall include conditions (whether standard or otherwise) covering the matters set out in paragraph (8); and
- (b) may include –
- (i) conditions (whether standard or otherwise) covering any or all of the matters set out in paragraph (9), and
- (ii) any other condition (whether standard or otherwise) that the Commission considers reasonable to ensure observance of the guiding principles, good practice and these Regulations.
- (8) The matters that supplementary conditions shall cover are –
- (a) the systems to be used to make information available to customers about –
- (i) the availability, under Article 9 of the Gambling Commission (Jersey) Law 2010, of assistance with problems related to excessive gambling,
- (ii) what may be lost or won in relation to the remote gambling and the chances of winning or losing,
- (iii) the identity of the licence holder, and
- (iv) the regulation of the remote gambling by the Commission;
- (b) the systems to be used to carry out checks on the age and vulnerability of customers;
- (c) the manner in which records, accounts and annual statements are to be made, retained, verified and sent to the Commission, including –
- (i) for a disaster recovery operator's licence, any records, containing information in addition to that notified under Regulations 34 and 39, to enable the Commission to monitor gambling under the licence for the purpose of Regulation 32(2)(ba),
- (ii) for a general remote operator's licence, time limits to allow for timely calculation and demand of the relevant annual fee under Regulation 10;
- (d) the nature and use of each remote site specified in the licence under Regulation 9, and of any controlling device in respect of the remote gambling conducted under the licence

(including any such device outside Jersey):

(e) whether any connection is permitted between a site or device mentioned in sub-paragraph (d) and –

(i) any remote site through which remote gambling is conducted by another person, or

(ii) any controlling device operated by or on behalf of another person conducting remote gambling;

(f) the nature and use of any equipment (other than a controlling device), including software, that is capable of affecting –

(i) the outcome of remote gambling under the licence, or

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

(g) the requirements as to testing and notification before any changes may be made to that equipment or to any controlling device;

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

(i) the maintenance of the adequacy of the systems referred to in sub-paragraphs (a), (b) and (h) and in Regulation 8(2)(c).

(9) Without prejudice to the generality of the Commission's power to impose any supplementary condition, the matters that supplementary conditions may cover include –

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

(b) the amounts to be paid to customers in relation to the remote gambling, and any other items or advantages to be given as winnings, and the manner in which they are delivered;

(c) the display of information intended to ensure that customers are not misled as to any issue relevant to the fairness of the remote gambling, and the form, location, manner and occasions of the display;

(d) the persons who may supply, install or maintain equipment, including software, that may be used in connection with the remote gambling, including any requirements as to approval, certification, qualification or training of those persons;

(e) the training of staff in respect of the requirements of the guiding principles, good practice and these Regulations; and

(f) the provision and maintenance of a current address at which the licence holder agrees to accept service of any documents under the Law or these Regulations, and which shall be taken to be that person's proper address for the purpose of Article 7 of the Interpretation (Jersey) Law 1954.

12 Condition of licence – use of specified premises

(1) It shall be a condition of a remote gambling operator's licence that remote gambling shall not be conducted from any premises in Jersey other than premises specified in the licence under Regulation 9(2)(b).

(2) It shall be a condition of a remote gambling operator's licence that no controlling device in Jersey shall be operated in respect of the remote gambling conducted under the licence, unless the device is on premises in relation to which a person, named on the licence under Regulation 9(2)(c), holds a current remote gambling facility provider's licence.

13 Condition of licence – access to and provision of information

(1) It shall be a condition of a remote gambling operator's licence that a holder of the licence shall, at all reasonable times, at the request of the ~~Minister~~Commission, provide the ~~Minister~~Commission with the information that the ~~Minister~~Commission may reasonably require in relation to –

(a) the control, by its owners, executive officers and directors, of any company constituting the

- person, or any holding company, or subsidiary company, in relation to the person;
- (b) the conduct of remote gambling operations, from Jersey or from any other country or territory, by the person or any foreign gambling corporation, or subsidiary company, in relation to the person;
 - (c) the conduct of any other businesses also owned by the person or any holding corporation, or subsidiary company, in relation to the person; and
 - (d) the regulation, by the relevant supervisory authorities of the person's home country or territory, of remote gambling conducted by any foreign gambling corporation in relation to the person.
- (2) It shall be a condition of a remote gambling operator's licence that the holder of the licence shall permit the ~~Minister~~Commission –
- (a) to inspect, at any time, the premises specified in the licence;
 - (b) while on the premises in accordance with sub-paragraph (a), to inspect and make, free of charge, 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~~Commission 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~~Commission 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~~Commission 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 Jersey~~ person ~~who is a Jersey resident, or a body corporate that is incorporated under the Companies (Jersey) Law 1991,~~ may apply to the ~~Minister~~Commission for a remote gambling facility provider's licence.
- (2) An application under paragraph (1) shall be in the form ~~set out in Schedule 2~~published by the Commission.
- (3) An application under paragraph (1) for a remote gambling facility provider's licence shall be accompanied by –
 - (a) proof that the person is entitled to occupy, ~~for a period of not less than 7 years,~~ the premises specified in the application as the ~~place~~premises from which, under the licence, remote gambling may be conducted by the holder of a remote gambling operator's licence; and
 - (b) proof that the person shall have access to appropriate technology and telecommunications infrastructure.
- (4) The ~~Minister~~Commission may –
 - (a) request a person who has made an application under paragraph (1) to provide to the ~~Minister~~Commission further information or documents in relation to the application; and

- (b) refuse to grant a remote gambling facility provider's licence to the person unless and until the information or documents are provided.

19 Fees for application and further investigation

- (1) An application under Regulation 18 shall be accompanied by a first stage application fee of £5,000.
- (2) The ~~Minister~~Commission may, by notice in writing to a person who has made an application under Regulation 18, require the person to pay a further investigation fee of £5,000.
- (3) The ~~Minister~~Commission may only issue a notice to a person under paragraph (2) if the ~~Minister~~Commission is of the opinion that the first stage application fee paid by the person will not cover the costs of making all the investigations necessary to determine whether to grant a remote gambling facility provider's licence in accordance with the application by the person.
- (4) The ~~Minister~~Commission may issue as many further notices to a person under paragraph (2) as the ~~Minister~~Commission thinks necessary to cover the cost of making all the investigations necessary to cover the costs referred to in paragraph (3) in relation to the application by the person.
- (5) If the application is for a licence to take effect on the expiry under Regulation 20(3)(b) of another licence, the Commission –
 - (a) shall consider whether it holds any relevant information previously obtained by it in connection with the expiring licence, and, if so, whether it can rely on that information without repeating any investigation into the same matter;
 - (b) shall reduce the first stage fee if it considers that the full amount is not needed to cover the costs referred to in paragraph (3), whether because any investigation does not need to be repeated or for any other reason; and
 - (c) shall not issue a notice under paragraph (2) unless it considers that that there has been a significant change, since the grant of the expiring licence, requiring further investigation.

20 Grant of remote gambling facility provider's licence

- (1) The ~~Minister~~Commission may, after receiving an application under Regulation 18 from a person grant, or, by notice in writing to the person, refuse to grant, a remote gambling facility provider's licence to the person.
- (2) The ~~Minister~~Commission may only grant a remote gambling facility provider's licence to a person under paragraph (1) if–
 - (a) the ~~Minister~~Commission is satisfied that the applicant is a fit and proper person to hold a licence;
 - (b) the ~~Minister~~Commission is satisfied that the person is a ~~resident of Jersey or a company incorporated under the Companies (Jersey) Law 1991~~person; and
 - (c) where the ~~Minister~~Commission has sent a notice in writing to the person under Regulation 19 (2), the person has, within 30 days of the ~~Minister~~Commission sending the notice, paid the further investigation fee; ~~and~~
 - ~~(d) a licence grant fee of £5,000 has been paid.~~
- (3) A licence granted under this Regulation –
 - (a) shall take effect from a date, no earlier than the date of its grant, specified in the licence; and
 - (b) shall expire 3 years after that date.

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~~Commission.
- (2) A remote gambling facility provider's licence shall specify the premises, owned or leased by the

holder of the licence, from which remote gambling by the holder of a remote gambling operator's licence may be conducted.

21A Annual fee

- (1) In this Regulation “year of effect” and related expressions have the same meaning as in Regulation 10.
- (2) The holder of a remote facility provider's licence shall pay to the Commission an annual fee of £5,000 in relation to the licence within 28 days after the start of each of the first, second and third years of effect of that licence.
- (3) At the end of a 28 day period referred to in paragraph (2), if the holder of a licence has not paid the annual fee in relation to that year of effect, that licence is revoked by virtue of this paragraph.
- (4) The revocation of a licence under paragraph (3) does not extinguish the liability to pay the fee.

Conditions of remote gambling facility provider's licence

22 Licence may be made subject to conditions

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

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~~Commission of the name of each holder of a remote gambling operator's licence who intends to conduct remote gambling from the premises specified on the remote gambling facility provider's licence.
- (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~~Commission –
- (a) to inspect, at any time, the premises specified in the licence;
 - (b) while on the premises in accordance with sub-paragraph (a), to inspect and make, free of charge, any records of any documents situated on the premises, and to open (including by force, if necessary) any container on the premises and to search its contents; and
 - (c) to access any electronic information stored on an electronic device, or by any other means, on the premises and to make, and take away, copies of such information.

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

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

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

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~~Commission of –
- (a) any change to the company structure;
 - (b) any significant changes to the class of the shares in the company or the rights that attach to them;
 - (c) the identity of each shareholder in the company who holds 5% or more of the shares in the company;
 - (d) any change to the shareholdings of the company, which changes relate to 5% or more of the issued share capital; and
 - (e) any appointments, dismissals, resignations or deaths of the directors of the company.
- (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~~Commission 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~~Commission –
- (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~~Commission, within each 28 day period that the premises are used for the conduct of remote gambling, reports as to the information obtained by the operation of that system.

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

Alteration of conditions of licence and specifications

28 Alteration at request of licensee of conditions of licence

- (1) The holder of a licence may apply to the ~~Minister~~Commission for the alteration or revocation of a condition to which the licence is subject in accordance with ~~Regulation 11(1)(b) or (Regulation 11(2), 11(2)(b) or (c)3), 11A~~ or 22(1).
- (2) An application under paragraph (1) shall be accompanied by a condition alteration fee of £250.
- (3) The ~~Minister~~Commission may, by notice in writing to the holder of a licence who has made an

application under paragraph (1)–

- (a) alter or revoke a condition of the licence in accordance with the application; or
 - (b) refuse to alter or revoke a condition of the licence in accordance with the application.
- (4) The ~~Minister~~Commission shall not alter a condition under paragraph (3) if the condition, as so altered, would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations ~~12 to 17~~15 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~~Commission for the alteration or revocation of any matter specified on the licence under Regulation 9.
- (2) An application under paragraph (1) shall be accompanied by a specification alteration fee of £250.
- (3) The ~~Minister~~Commission may, by notice in writing to the holder of a remote gambling operator's licence who has made an application under paragraph (2)–
 - (a) alter or revoke; or
 - (b) refuse to alter or revoke,any matter specified on the licence under Regulation 9.
- (4) The holder of a remote gambling facility provider's licence may apply to the ~~Minister~~Commission for the alteration or revocation of the specification on the licence, under Regulation 21, of the premises from which remote gambling may take place under the licence.
- (5) An application under paragraph (4) shall be accompanied by a specification alteration fee of £250.
- (6) The ~~Minister~~Commission may, by notice in writing to the holder of a remote gambling facility provider's licence who has made an application under paragraph (4)–
 - (a) alter or revoke; or
 - (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~~Commission's own motion

- (1) The ~~Minister~~Commission may, of ~~his or her~~its own motion, by notice in writing to the holder of a licence, alter, add to, or revoke, the conditions of the licence, other than the conditions imposed under Regulations ~~12 to 17~~15 or 23 to 27.
- (2) The ~~Minister~~Commission shall not, under paragraph (1), alter or add to the conditions of a licence if the condition as so altered, or that is added, would be inconsistent with a provision of the Law or these Regulations or a condition of the licence specified in Regulations ~~12 to 17~~15 or 23 to 27.
- (3) The ~~Minister~~Commission may not, under paragraph (1), alter a condition of a licence, or add a condition to a licence, unless –
 - (a) the holder of the licence has been notified of the intended alteration or addition;
 - (b) the holder of the licence has been invited to show cause to the ~~Minister~~Commission why the condition should not be altered as intended or added to the licence; and
 - (c) 14 days have expired since the notice was given under sub-paragraph (a) and the holder of the licence has been given an opportunity to show cause to the ~~Minister~~Commission why the condition should not be altered as intended or added to the licence.
- (4) The ~~Minister~~Commission may, by notice in writing to the holder of a remote gambling operator's licence, revoke –
 - (a) the specification on the licence under Regulation 9 of the name of the holder of the remote

- gambling facility provider's licence under which remote gambling may be conducted by the holder of the remote gambling operator's licence; and
- (b) the specification on the licence of the premises from which remote gambling may be conducted by the holder of the licence,
- if the remote gambling facility provider's licence has been revoked.

PART 5

BREACH OF CONDITION AND SUSPENSION AND REVOCATION OF LICENCE

31 Breach of condition

- (1) The holder of a licence granted under these Regulations shall not contravene a condition of the licence.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.
- (3) Paragraph (2) does not apply to a contravention of a condition if –
- (a) the condition requires compliance with a provision in a code of practice; and
- (b) the contravention of the condition consists solely of a failure to comply with that provision in that code.
- (4) Paragraphs (2) and (3) do not limit any power of the Commission in relation to a contravention of –
- (a) a condition of a licence; or
- (b) a provision in a code of practice.

32 Suspension of licence

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

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

operator's licence, that –

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

PART 6

CONDUCT OF REMOTE GAMBLING UNDER REMOTE GAMBLING OPERATOR'S LICENCE

34 Operator to notify ~~Minister~~Commission when remote gambling from Jersey begins under disaster recovery licence

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

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

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

(2) A notice for the purposes of paragraph (1)–
(a) may be given in writing, or by writing delivered by facsimile, email or other electronic method; and
(b) shall specify the date and exact time at which the remote gambling began to be conducted from the premises.

(3) The holder of a remote gambling facility provider's licence shall, within 72 hours after remote gambling begins to be conducted under a disaster recovery operator's licence from premises in Jersey specified in his or her licence, notify the ~~Minister~~Commission.

(4) A notice for the purposes of paragraph (3)–
(a) shall be in writing, signed by the holder of the licence or an employee or agent of the holder, and shall not be delivered by facsimile, email or other electronic manner; and
(b) shall specify the date and exact time at which the remote gambling from the premises in Jersey began to be conducted.

(5) A person who contravenes paragraph (1) or (3) commits an offence and shall be liable to a fine of level 4 on the standard scale.

36 Daily operation fee

(1) If the holder of a ~~remote gambling~~disaster recovery operator's licence begins to conduct remote gambling from Jersey under the licence, he or she shall, within 14 days, pay to the ~~Minister~~Commission, for each day, or part of a day, during which he or she conducts remote gambling from Jersey under the licence, a daily operation fee for the licence of £250.

(2) If the holder of a ~~remote gambling~~disaster recovery operator's licence does not pay the daily operation fee within the period specified in paragraph (1), the licence shall, if it is still in force be revoked by virtue of this paragraph.

37 Extension of active licence period

(1) A holder of a ~~remote gambling~~disaster recovery operator's licence who is conducting remote gambling from Jersey under the licence may, in writing, request the ~~Minister~~Commission 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~~Commission shall, within 30 days after receiving a request under paragraph (1) from

- a holder of a ~~remote gambling~~disaster recovery 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~~Commission may, under paragraph (3), extend the period for which remote gambling may be conducted from Jersey under the ~~licence –~~
- ~~(a) licence~~ 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.~~
- (4A) In considering whether (and for what period) to extend a period under paragraph (3), the Commission shall take account of its power to suspend a licence under Regulation 32(2)(ba), but it may extend a period whether or not it proposes to suspend the licence under that power on or after the expiry of the extended period.
- (5) The ~~Minister~~Commission shall not, under paragraph (3), extend the period for which remote gambling may be conducted from Jersey under the licence if the ~~Minister~~Commission 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~~disaster recovery operator's licence, or a foreign gambling corporation, in relation is granted 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 in relation to that person, is subsequently suspended or revoked, ~~the licence granted under these Regulations~~ the disaster recovery operator's licence is, by virtue of this paragraph, suspended for the same period, or revoked, as the case may be.
- (2) If a notice is given under Regulation 32(3) to the holder of a remote gambling facility provider's licence, he or she is not authorized, during the period of the suspension referred to in the notice, to permit or enable the holder of the remote gambling operator's licence specified in the notice to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence.
- (3) If a notice is given under Regulation 32(4) to the holder of a remote gambling operator's licence, he or she is not authorized, during the period of the suspension referred to in the notice, to conduct remote gambling from any premises owned or leased by the holder of the remote gambling facility provider's licence specified in the notice.
- (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~~Commission when remote gambling from Jersey ceases

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

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

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

PART 7

REGULATION OF REMOTE GAMBLING

~~41 Remote gambling during activation period~~

41 Supervision of remote gambling

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

42 ~~Minister~~Commission may issue compliance directions

- (1) The ~~Minister~~Commission may, by notice in writing, issue a compliance direction to –
 - (a) the holder of a remote gambling operator's licence who is conducting ~~in~~from Jersey remote gambling; or
 - (b) the holder of a remote gambling facility provider's licence whose name is specified on a remote gambling operator's licence, if remote gambling is being conducted ~~in~~from Jersey by the holder of the remote gambling operator's licence.
- (2) A compliance direction may require the holder of a licence to whom the direction is issued to take an action, or not to take an action, specified in the direction.
- ~~(3) A compliance direction shall not be inconsistent with a provision of the Law or these Regulations or (3) The Commission may not issue a compliance direction unless it considers it is the best reasonably available means to ensure observance of any one or more of the following –~~

- (a) a condition of the licence;
 - (b) good practice;
 - (c) the guiding principles;
 - (d) any provision of these Regulations;
 - (e) any provision of the Law.
- (4) A holder of a licence who contravenes a compliance direction issued to him or her commits an offence and shall be liable to a fine of level 4 on the standard scale.

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~~Commission 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.~~
- (1A) A person notified under Regulation 10(6)(a) of an annual fee falling within Regulation 10(8)(b) or (c) may appeal to the Royal Court against the decision of the Commission as to the calculation, estimate or treatment of the remote gambling yield under Regulation 10(7).
- (2) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the Commission under Regulation 11(3), 11A or 22(1) to impose or substitute a condition on a licence granted to the person.
- (3) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the ~~Minister~~Commission –
- (a) under Regulation 28 to refuse to alter the conditions imposed on the licence;
 - (b) under Regulation 30 to alter a condition imposed on, or to add a condition to, the licence; or
 - (c) under Regulation 32 or 33 to suspend or revoke the licence.
- (4) A person who has been granted a licence under these Regulations may appeal to the Royal Court against a decision by the ~~Minister~~Commission under Regulation 29 to refuse to alter any matter specified on the licence under Regulation 9 or 21.
- (5) A person may appeal to the Royal Court against a decision by the ~~Minister~~Commission 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~~Commission and an appellant under this Part shall have a right of appeal to the Court of

Appeal against a decision of the Royal Court under Regulation 44.

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

46A Fees

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

47 Citation

These Regulations may be cited as the Gambling (Remote Gambling ~~Disaster Recovery~~) (Jersey) ~~Regulations~~Regulations 2008.

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{Schedules deleted}

{NB Transitional provisions}