



Article

THE ISLAND OF ALDERNEY

Alderney is situated in the Channel Islands, just off the French coast of Normandy. It is the third largest of the Channel Islands, is 8 miles from France and 60 miles from England. Like Guernsey and Jersey, the island enjoys a mild climate and has its own independent Government. It is an established offshore finance and e-commerce sector, which maintains a high reputation in the international financial field.

The Channel Islands are independent of and not subject to the Parliament of the United Kingdom. It has always been a self-governing unit under the direct rule of the Crown acting through the Privy Council. The Privy Council is a committee of senior British politicians appointed by the Queen, on the advice of the Prime Minister.

According to constitutional custom, the Crown does not interfere in island politics, save when some vital constitutional change is necessary and it never interferes in local affairs. There is little bureaucracy in the Channel Islands and certainly not in Alderney. The island is perhaps unique in that although the United Kingdom looks after it in the field of foreign affairs, defence and its association with the European Community, which allows it to be a free trade entity, the islands do not themselves form part of the European Economic Community.

Alderney offers a well-regulated banking, insurance and investment environment. It has designated territory status under the United Kingdom Financial Services Act. Part of the bailiwick of Guernsey for the purposes of taxation, it also has a reciprocal agreement with Jersey and the United Kingdom. As a result, in Alderney there is no Value Added Tax, no tax on Capital Gains, no tax on exempt companies carrying on business outside the islands and no Gaming and Betting Taxes. There is a maximum tax of 20% on profits and income. The intention is to phase out tax on profits and income entirely by 2007.

The Government is an elected parliamentary body known as 'The States of Alderney'. When the States was considering the future economic development of the island, it determined, in 1996, within the context of its unique position and the opportunities which it was able to offer, that it would be an ideal environment to host Internet gambling, provided that it was a strictly regulated environment. The first legislation permitting electronic betting was passed in 1997. Instead of immediately opening the doors to anyone who wished to apply, it was determined that a cautious approach should be adopted and an initial cap on the maximum number of licences to be granted was imposed, although this has since been repealed.

Following the introduction of on-line betting, it became evident that it was in the interests of both the island and the industry to establish an independent, non-political Commission to take responsibility for the regulation and control of the industry. This led to the establishment of the Alderney Gambling Control Commission (AGCC) in 2000. The States of Alderney appointed persons with international experience in the field of gaming regulation and of licensing and



regulatory work generally. The development has been such that the Commission appointed, at the end of 2001, a Chief Executive Officer who had substantial experience and knowledge of the regulation of gaming.

Once the Commission had been appointed, it reviewed the existing legislation and, as a result of that review, developed a regulatory framework which is designed to apply the highest international standards. It was based, initially, on the legislative initiatives taken in Australia, and amended, in the light of the Commission's general experience of gambling and lessons learned from the procedures for granting electronic betting licences and the regulation of both the operation of the licences and the operators themselves. The end result, it is believed, has achieved the objectives which were set for the Commission to establish a well-regulated jurisdiction for reputable Internet gambling investors who would share in the values of operating according to high levels of competence and integrity. The advantage to the island was to maintain its reputation for financial integrity and fairness both to those who are licensed in any field by the island and to the public who may make use of the facilities offered by operators licensed by the authority.

The legislation which is now in existence is voluminous but readily comprehensible and the purpose of this article is to give an outline of how the process operates. Those who have applied for and been granted licences have not found it difficult to comply with the procedures. Some who sought to apply found the investigation processes, which are described later, difficult to comply with, but those who come from well regulated environments in their own country, either as land based casinos or as Internet operators, have welcomed the fact that the enquiries conducted prior to the grant of a licence enable them to promote their businesses on the basis that it will be well understood by those who wish to make use of their services that the player or bettor will receive a fair deal, conducted honestly and technically competently. The customer also has the reassurance that, should anything go amiss or be thought to have gone amiss, the Regulator is available to investigate and determine whether the licensee has complied with the high standards which are imposed upon him.

The Commission has recently issued interactive gaming licences to Ritz Interactive Ltd and Littlewoods (Alderney) Ltd, who are well-known casino as well as lottery and sports pool operators in the UK. It has also issued an interactive gaming licence to WagerWorks (Alderney) Ltd, a subsidiary of WagerWorks, the Nevada based systems provider and to Bonne Terre Ltd, a subsidiary of B. Sky B.

The Commission is currently considering the applications of Cryptologic (Alderney) Ltd and VI Ltd, a subsidiary of Las Vegas Sands Inc, owners of the Venetian Casino. Currently there are two electronic betting licensees, Sportingbet (Alderney) Ltd and Bonne Terre Ltd.

Regulatory Framework

For the purposes of the legislation, separate enactments have been made to regulate interactive gaming; electronic betting and land-based bookmaking. For the purposes



of this article, consideration is only given to the interactive gaming and electronic betting "Ordinances", the name by which legislation is known.

The Ordinances are respectively the Gambling (Interactive Gaming) (Alderney) Ordinance 2001, as amended by the Gambling (Interactive Gaming) (Amendment) (Alderney) Ordinance 2002 and the Gambling (Interactive Gaming) (Amendment 2) (Alderney) Ordinance 2002, which are obtainable as one document from the Commission's offices, and the Gambling (Electronic Betting) (Alderney) Ordinance 2002. It has taken time to bring all the legislation into cohesion, as it had previously been somewhat piecemeal. The legislation is constantly under review for improvements considered by the Commission to be necessary; either of the Commission's own volition or after considering any suggestions which are made to it.

Both the Interactive Gaming and Electronic Betting legislation provide, in broad terms, for the following aspects:

- Applications for licenses
- Conditions to licenses;
- General provisions about licenses;
- Suspension of licenses;
- Nominees;
- Key personnel; and
- Compliance controls.

The sections on compliance controls deal in more detail with matters such as control systems; the approval of gaming equipment; monitoring and investigations, financial accounts, reports and audits.

Originally, the Ordinance provided for a limitation on the number of interactive gaming licences, but in March 2002, the Ordinance was amended to remove the limit so there is now no restriction on the number of licences which the Commission may grant, always subject, of course to a taking into account the physical and economic impact of licensed operations on the island.

In addition to the above, the Interactive Gaming Ordinance provides for the issuing of an innovatory Certificate of Prior Approval to gaming system vendors. In this regard a distinction is made between two categories of suppliers of interactive gaming equipment, namely:

- A person who both supplies the gaming software and who offers a turnkey solution, where the casino owner is responsible for the marketing of the casino, but the day to day operation of the games is performed by the supplier on the owner's behalf. In terms of the Ordinance, only the holder of an interactive gaming licence is authorised to play interactive games. Therefore, a system supplier in



this category will be required to obtain an interactive gaming licence;
and

- A person who acts as a system vendor, only, and takes no active part in the operation of the games. This type of supplier is considered as a business associate of an interactive gaming licensee (or applicant for an interactive gaming licence) and, as such, is required to pass probity checks to ensure that the company is fit and proper to be associated with the operations conducted by an interactive gaming licensee. This supplier may apply for a Certificate of Prior Approval.

In addition to the legislative framework, the Commission has during the year under review finalised the following documents to assist both applicants for licences and licensees to understand the regulatory approach and requirements of the Commission:

- Brief to interested parties for:
 - An electronic betting centre licence;
 - An interactive gaming licence; and
 - Certificate of prior approval.
- Application forms for:
 - An electronic betting centre licence;
 - An interactive gaming licence; and
 - Certificate of prior approval.
- Schedule of licence fees;
- General conditions of licence;
- Control system guidelines for:
 - An electronic betting centre licence; and
 - An interactive gaming licence.
- Procedures for objections to licensees; and
- Procedures for submitting player complaints.

These documents are all available on the Commission's website in a downloadable format, and can be accessed at www.gamblingcontrol.org

The Commission's approach towards regulating the online betting and gaming

The single most important policy of the Commission is to provide a regulatory environment that meets 'world-class' standards and thereby both protects the reputation of Alderney and attracts 'world-class' operations. This is not what is necessarily offered elsewhere. There are currently about two thousand internet gambling businesses operating from jurisdictions other than Alderney, of which only a handful are regulated in any meaningful way.

The Commission therefore determined to offer a regulatory environment that is likely to attract the relatively small number of operators who seek a comprehensive and tightly controlled regime. These are for the most part the major gambling operators



who have brands that they wish to protect and who wish to be able to demonstrate to the regulators of their immensely valuable terrestrial casinos that they observe similar high standards when operating outside their normal jurisdiction. In the longer term, it is these substantial and high quality companies that are likely to dominate the world wide internet gambling business. They are also the companies likely to conduct their businesses in a way that is consistent with the standing of Alderney and Guernsey as financial centres.

Such companies will not seek a licence in a jurisdiction that does not have real substance. In particular, they will wish to know of the detailed commitments and regulations required before they consider an application. The Commission has therefore appointed suitably experienced staff and engaged financial and technical consultants who have developed the detailed specifications of the internal controls and system standards required. It is particularly important that potential licensees know what is required of them from the outset and the laws, regulations and guidelines have to be comprehensive and detailed.

Following from the broad policy of the Commission, its main objectives are to ensure that:

- all gaming and betting is conducted honestly and fairly;
- the funding, management and operation of online gambling on Alderney remains free from criminal influence and exploitation;
- gaming and betting activities are regulated and monitored so as to protect the interests of the public, in particular, ensuring that players understand what they are being offered when they take part in the gambling offered; and
- the harm that gaming and betting may cause to the public, individuals and families is minimised.

These objectives are reflected in the process leading to approval for the conduct of gambling from Alderney.

How It Works

An applicant for a licence must be resident on Alderney. Effectively, this means that either an individual must reside in Alderney or, if a corporate application is made, the company must be incorporated in Alderney. A company must also appoint a Nominee resident on the island who is approved by the Commission and available to and answerable to the Commission and its inspectors on a day to day basis.

The regulatory framework of the Commission comprises three main components, namely, licensing, technical compliance and internal controls. It extends to all companies and individuals associated with or connected with the ownership, administration or connected with the ownership, administration or management of gaming operations intended to be conducted under an Alderney licence.



The licence is the first step that an applicant company must take in the process of “going live” in Alderney. The main objective of this step is to ensure that the company, its shareholders, key personnel and associates and its sources of funding satisfy the “probity test”, ie is a suitable company or individual to hold or be associated with the licence. This is described as “the fit and proper test”, to pass which, the individual applicant or the applicant company, its directors, key personnel and associates, including associated companies, are expected to submit themselves to probity investigations. These investigations are not limited to the applicant company and its key personnel, but are also extended to its system provider, if different to the applicant company.

An application for a licence requires the completion of three forms, namely:

- Formal application to the Commission, copies of which must be served on the Chief of Police in Guernsey and published in the Alderney Official Gazette. A copy must also be posted outside the Court of Alderney.
- Corporate Declaration Form.
- Key Personnel Declaration Forms.

A determination as to who is to be investigated will be made by the Commission at the time the application is lodged. However the Commission reserves the right to investigate other parties as it sees fit.

- ***Corporate Declaration Forms***

Information required from prospective applicants includes the following:

- Ownership of the applicant company and of all related companies.
- Sources of funds.

The Commission will wish to ensure that there is sufficient knowledge and expertise available to the applicant for the operation of Internet gambling.

- ***Declaration for Key Personnel***

Information required from prospective applicants includes the following:

- Personal history including particulars of previous employment.
- Relevant experience.
- Financial circumstances.
- Particulars of any offences committed.

Persons who may be deemed “Key Personnel” are the following:

- CEO and persons reporting to the CEO.
- The company’s nominee
- Other decision makers within the company.
- Directors and significant shareholders, a shareholder who holds greater than 3% if the issues share capital.
- Persons who have root level access to computer systems and/or those who are able to influence the outcome of a game or customer accounts.



- Directors and executives of the companies that supply back-end gambling software.
- All employees and associates of software testing companies who have access to either operations or gambling system software and security.
- Any person concerned with the financial arrangements and/or promotion of the facilities of the operation.

In carrying out its licensing investigations, the Commission will need to satisfy itself of the suitability of the applicant. In doing so, the Commission may use its own staff and may contract certain elements of the investigation out to independent and approved agencies appointed by the Commission.

The information provided by applicants in the above forms and declarations will form the basis for these investigations, but the Commission reserves the right to request additional information from applicants in order to satisfy itself of the suitability of the applicant. In order to facilitate this process, the Commission prefers to meet with applicants, following the submission of their applications, to discuss the nature and extent of the investigations and the timetable for completion.

Applicants will be required to pay the costs of all investigations.

In respect of the probity investigation, an initial deposit of £10,000 will be paid to the Commission and drawn down as required. Unused funds will be refunded upon completion of the process. Additional funds may be requested as required to ensure that the application process may be taken to its conclusion.

A lodgment fee of £250 is required on an application for a Key Personnel licence.

Once a finding of suitability has been made, the applicant company and its key personnel are awarded a license, conditional upon the licensee satisfying the Commission that its system and internal controls applicable to the operation of the business, meet the Commission's approval.

- ***Technical Standards (Compliance testing)***

Alderney was one of the very first, and is still amongst only a few online gambling jurisdictions to have developed a set of technical standards to which the electronic gambling system of a prospective operator is tested. Following the granting of a licence, the licensee must submit its Internet gambling system to an independent testing authority, accredited by the Commission. Following the approval and certification of a licensee's system, the licensee must submit all material changes to the Commission for approval.

The technical standards applicable to Internet gaming systems provide for the security and integrity of the gambling activity, system requirements, interface requirements, interface requirements and player protection. In order to assist



applicants and licensees, the Commission has developed a set of standards contained in its *Guidelines for Control System Submissions*, available from the offices of the Commission or on the Internet site. The testing of the system will be carried out by one of the testing houses approved by the Commission.

Although the Commission will take part in the discussions to determine the scope of testing to be undertaken, the contractual relationship for the testing of Internet gaming systems will be between the applicant and the testing house. All costs related to testing will be met by the applicant.

The Commission reserves the right to verify the test results of the testing house. In such instances, the Commission will do so at its own cost.

- ***Control System***

Prior to commencement of any interactive gambling operations, licensees are also required to produce, and have approved by the Commission, a Control System. Such a Control System will provide for all the internal controls and operating procedures relevant to the day to day running of an Internet gambling business. The purpose is to ensure that licensees adhere to sound internal controls and operating procedures, minimizing the risks in areas such as physical security of information, service levels, financial accounting, protection of the player, and money laundering.

In order to assist licensees, guidelines have been prepared by the Commission, which are contained in detail in the *Guidelines for Control System Submissions*, available from the Commission. The guideline provides for such matters as:

- Structure and staff;
- Accounting systems;
- Player's accounts;
- E-Gambling;
- Computer controls;
- Technical compliance requirements.

The technical requirements provide that licensees may supply, install or operate gaming equipment or conduct Internet gaming, only if the licensee's operating systems and equipment have been approved by the Commission and continue to meet the technical standards and minimum requirements as determined by the Commission from time to time. These minimum requirements are contained in the *Guideline for Control System Submissions* and govern matters such as:

- ***Security and Integrity of Gaming***

Including:

- Physical security
- Network level security



- Application level security
- Operating system level security

- ***System Requirements***

Including:

- Risk assessment
- Development environment
- Test environment

- **Interface Requirements**

Including:

- System and financial institutions
- System and off-site logging
- Impact of non-gaming related functions (if any) on the system
- Release procedures and associated documentation
- Submission procedures and testing process

- **Player Protection**

The interests of the player are a major element of the legislation which includes requirements for:

- Player registration, including setting of maximum wager levels by players
- Provisions relating to compulsive gambling.
- Controls relating to under aged persons.
- Cash not to be used for betting transactions.
- Procedures for handling of customers' funds to be in place
- Publication of return to player figures for games
- Publication of game rules
- Games not to provide false expectations or have misleading rules
- Appropriate controls on advertising

Ongoing Compliance

Once a licensee is operational, regular and ad hoc audits will be conducted to ensure compliance with the approved technical standards and internal controls. The auditing and testing may be undertaken by the staff of the Commission or independent agencies appointed by the Commission.



Testing and auditing will not be limited to purely technical requirements and will address, where necessary, areas such as compliance with the financial requirements of the Commission, player protection and continuing probity.

In order to facilitate the process of continuing compliance, the Commission regards regular and continuous dialogue with its licensees of importance. Following the issuing of the first interactive licences in April 2002, the Commission facilitated the establishment of an industry forum, called the Alderney Gambling Licensees Forum, consisting of all licensees. The forum met twice during 2002, and will in future meet once every quarter. The purpose of the forum is to establish a platform for the industry to discuss and debate matters of common interest and to facilitate communication between the Commission and the industry.

SUMMARY

Since the Island of Alderney determined to make available Licences in 1996 for Electronic Betting and subsequently Interactive Gaming, it has proceeded carefully to put in place legislation to regulate and control the facilities to be offered from the Island. This was done in the light of experience of other jurisdictions. Careful planning has resulted in a first-class regulatory environment which it is considered is for the benefit of operators and public alike while maintaining the reputation of the Island as a financial and e-commerce jurisdiction.

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