

Notification of exercise of licence.

10. (1) Before, or within one hour of, commencing to exercise its Temporary eGambling licence, a Temporary eGambling licensee shall notify the Commission of its intention to, or its actual, exercise of that licence and the reason for its exercise.

(2) In the first instance, the notification required by paragraph (1) shall be by email communication to the email address of the Commission specified on its website.

(3) As soon as reasonably practicable after complying with paragraph (2), a letter signed by a duly authorised officer of the Temporary eGambling licensee shall be sent to the offices of the Commission confirming the precise time at which it commenced to exercise its licence.

Notification of cessation of exercise of licence.

11. (1) At, or within one hour of, ceasing to exercise its Temporary eGambling licence, a Temporary eGambling licensee shall notify the Commission of this fact and the reason for ceasing to exercise the licence.

(2) In the first instance, the notification required by paragraph (1) shall be by email communication to the email address of the Commission specified on its website.

(3) As soon as reasonably practicable after complying with paragraph (2), a letter signed by a duly authorised officer of the Temporary eGambling licensee shall be sent to the offices of the Commission confirming the precise time at which it ceased to exercise its licence.

Computation of period of exercise of licence.

12. For the purpose of computing the number of days during which a Temporary eGambling licence has been exercised by the licensee, the exercise of the licence at any time, however short or long, between midnight and the midnight following, as those times occur in Alderney, shall be computed as the licence being exercised for one day.

Circumstances in which application for Category 1 or 2 eGambling licence must be made.

13. (1) Where a Temporary eGambling licence has been exercised —

- (a) for 30 days continuously; or
- (b) for an aggregate of 60 days in any six month period,

the Temporary eGambling licensee shall forthwith cause a company to be incorporated in accordance with the Companies (Alderney) Law, 1994¹ in order for that company to submit an application for a Category 1 eGambling licence and/or Category 2 eGambling licence in accordance with regulation 16(1), and if the Temporary eGambling licensee fails to comply with this requirement, the Commission may give the Temporary eGambling licensee notice in writing (a “**conversion notice**”) requiring it within 42 days of receipt of the conversion notice to comply with the requirements of this paragraph.

(2) If, before the expiry of the period specified in the conversion notice, a Temporary eGambling licensee believes that it will not be able to comply with the requirements of the conversion notice, it may, by making application to the Commission by letter signed by a duly authorised officer of the licensee, seek an extension of the 42-day period.

(3) The Commission shall give the Temporary eGambling licensee written notice of its decision under paragraph (2) and of the reasons for it.

¹ Order in Council No. XXXIV of 1994, I of 2001, XV of 2002.

Effect of compliance with conversion notice.

14. (1) A Temporary eGambling licensee which complies with the requirements of regulation 13 may continue to exercise its Temporary eGambling licence until the application made for a Category 1 eGambling licence and/or Category 2 eGambling licence has been determined by the Commissioners.

(2) On the day on which the Commissioners determine the application made for a Category 1 eGambling licence and/or Category 2 eGambling licence, the Temporary eGambling licensee shall be deemed to have surrendered its Temporary eGambling licence without the requirement for a surrender notice in accordance with regulation 40.

Consequences of non-compliance with conversion notice.

15. A Temporary eGambling licensee which fails to comply with the conversion notice given in accordance with regulation 13 shall be deemed to have surrendered its Temporary eGambling licence on the third day after the expiry of the period for compliance with the conversion notice, without the requirement for a surrender notice in accordance with regulation 40.

CHAPTER V - GENERAL PROVISIONS FOR eGAMBLING LICENCES

DIVISION 1 - INITIAL LICENCE APPLICATION

Submission of application.

16. (1) An application for an eGambling licence shall be made in writing by completing the application form in Schedule 1 and the notice in the form set out in Schedule 2, signed by a duly authorised officer of the applicant and delivered to the offices of the Commission.

(2) Before making an application in accordance with paragraph (1), a person intending to apply for an eGambling licence, or a person acting on behalf of a prospective applicant, may submit to the Commission, in electronic or paper format, all or part of the application form in Schedule 1 for the purposes specified in regulation 20(2).

Initial deposit of investigation monies.

17. (1) Before, or at the time of, the submission of an application for an eGambling licence, the relevant sum of money specified under Schedule 21 of these regulations shall be deposited with the Commission by, or on behalf of, the applicant.

(2) The Commission is permitted to draw from the money deposited under paragraph (1) the costs associated with processing, investigating and determining that application.

Publication of Gazette notice.

18. An applicant for a Category 1 eGambling licence and/or Category 2 eGambling licence shall cause a notice in the form set out in Schedule 2 containing the information required thereon to be published in the edition of the Alderney Official Gazette next following the date of its application.

Display on Commission's website.

19. Following receipt of an application for an eGambling licence, the Commission shall post and thereafter continuously display a copy of the applicant's notice in the form set out in Schedule 2 on its website until the application is withdrawn by the applicant or determined by the Commission.

Commencement of investigations.

20. (1) When an applicant has complied with regulations 16(1) and 17, the Commission shall make arrangements to investigate the applicant and, where applicable, any associate of the applicant

in order to assess whether the applicant appears to be a fit and proper person to hold an eGambling licence.

(2) If a person submits all or part of an application form in accordance with regulation 16(2) and complies with regulation 17, at the request of that person, the Commission may make arrangements to commence an investigation in accordance with paragraph (1) insofar as that is practicable from the information supplied, pending compliance with regulation 16(1).

Criteria against which applicant assessed.

21. (1) In deciding whether an applicant for an eGambling licence is a fit and proper person to hold that licence, the Commissioners shall have regard to the following matters —

- (a) the applicant's character;
- (b) the applicant's business reputation;
- (c) the applicant's current financial position and financial background;
- (d) whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (e) whether an associate of the applicant satisfies regulation 22;
- (f) whether the applicant has, or is able to obtain, appropriate resources and appropriate services;
- (g) whether the applicant has the appropriate business ability to conduct eGambling successfully under an eGambling licence; and
- (h) the manner in which the applicant currently conducts any form of eGambling in any jurisdiction (if at all).

(2) In deciding whether an applicant for an eGambling licence is a fit and proper person to hold that licence, the Commissioners may have regard to any other licence or permission however described allowing the applicant, or an associate of the applicant, to conduct any form of gambling lawfully in Alderney or another jurisdiction.

(3) Sub-paragraphs (d), (f) and (g) of paragraph (1) do not apply to applicants for a Temporary eGambling licence.

Criteria against which associate assessed.

22. (1) In deciding whether an associate of an applicant for an eGambling licence is a fit and proper person to be associated with the operations proposed by the applicant —

- (a) an associate who holds an associate certificate or, as the case may be, a hosting certificate shall without further investigation be regarded as having satisfied the Commissioners that it is a fit and proper person to be associated with an eGambling licensee's operations; and
- (b) where an associate does not hold an associate certificate or a hosting certificate, the Commissioners shall have regard to the following matters —
 - (i) the associate's character;
 - (ii) the associate's business reputation;
 - (iii) the associate's current financial position and financial background; and
 - (iv) where applicable, whether the associate has the appropriate business ability to assist the applicant to conduct eGambling successfully under an eGambling licence.

(2) Where an associate of an applicant for a Category 1 eGambling licence or Category 2 eGambling licence holds a Temporary eGambling licence issued under section 7 of the Ordinance, the Commission shall take that into account for the purposes of paragraph (1)(a) as if that Temporary eGambling licensee held an associate certificate.

Objection to application for Category 1 or 2 eGambling licence.

23. (1) Where the Commission receives any representation made as a result of the publication or display of the notices required by regulations 18 and 19 which raises any objection to the grant of a Category 1 eGambling licence or Category 2 eGambling licence, a duly authorised officer of the Commission shall enquire of the person making the representation whether he wishes to make oral representations at a hearing before the Commissioners or whether he is content for the Commissioners to take into account his objection, including any further written representations he may wish to submit within 14 days of receipt of the enquiry, without the need for a hearing.

(2) If the person making the objection elects to make oral representations, the Commission shall, by giving at least 14 days' notice of the hearing to the applicant and the person raising the objection, appoint a date, time and place for the hearing.

(3) At a hearing under paragraph (2) —

- (a) the person raising the objection shall make his representations and the applicant shall respond;
- (b) a duly authorised officer of the Commission shall be entitled to ask questions of either person;
- (c) the parties and the duly authorised officer may appear in person or through any representative; and
- (d) the Commissioners may ask questions of any party present at the hearing.

(4) Unless the Commissioners otherwise direct, a hearing under paragraph (2) shall be held in public in Alderney.

Request for further information.

24. At any time before an application for an eGambling licence is determined by the Commission, an officer or servant of the Commission may request from the applicant or, with the applicant's prior permission, from some other person such further information or documentation as the officer or servant considers necessary to enable a proper assessment of the application to be made.

Requirement for further information.

25. (1) Whether or not a request in accordance with regulation 24 has been made, a duly authorised officer of the Commission may, by notice in writing given to the applicant, require the applicant to supply to the Commission such further information or documentation as may reasonably be required to make a proper assessment of the application.

(2) Where a notice under paragraph (1) has been given, the Commission –

- (a) is not required to determine the application until the notice has been complied with;
- (b) may, if the applicant fails to comply with the notice under paragraph (1) within a reasonable time, give the applicant notice by email or other means that if it fails to so comply within 7 days, then the applicant shall be deemed to have withdrawn its application pursuant to regulation 28(1).

External consultations.

26. As part of the investigation of an application for an eGambling licence, an officer or servant of the Commission may make appropriate enquiries of an officer of police, any gambling regulator operating outside Alderney, any law enforcement agency operating outside the Bailiwick of Guernsey or such other person as he considers can assist him in order to enable a proper assessment of the application to be made.

Supplementary deposit of investigation monies.

27. (1) If, prior to the determination of an application for an eGambling licence, the monies deposited with the Commission in accordance with regulation 17 or this regulation have been exhausted, the Commission may by notice in writing to the applicant require that the relevant further sum specified under Schedule 21 be deposited with the Commission by, or on behalf of, the applicant from which the Commission is permitted to draw the further costs associated with processing, investigating and determining that application.

(2) Where a notice under paragraph (1) has been given, the Commission is not required to determine the application until the notice has been complied with.

Withdrawal and lapse of application.

28. (1) At any time before the Commissioners determine an application for an eGambling licence, the applicant may, by notice in writing given to the Commission, withdraw its application.

(2) If an applicant fails to proceed with its application by –

- (a) not taking a required step in furtherance of the application for 3 months; or
- (b) failing to substantially respond to an enquiry or direction by the Commission within 3 months,

the application shall lapse and be treated as if it had been withdrawn.

(3) Where an applicant withdraws its application or that application lapses by the operation of paragraph (2), the Commission shall repay to the applicant or, as the case may be, the person who deposited monies on behalf of the applicant any monies not drawn by it from the monies deposited in accordance with regulation 17 or, where applicable, regulation 27.

Report to Commissioners.

29. On completion of an investigation of an applicant for an eGambling licence and, where applicable, any associate of the applicant, a report containing details of the application, the investigation and the assessment made of the application shall be prepared by a duly authorised officer of the Commission for submission to the Commissioners for their consideration.

Determination of application.

30. (1) Before deciding whether to grant or refuse an application for an eGambling licence, the Commissioners shall consider —

- (a) the report submitted to them in accordance with regulation 29;
- (b) any representations received as a result of the publication or display of the notices required by regulations 18 and 19 and, where applicable, any further representations made in accordance with regulation 23, whether written or oral; and
- (c) such other material or information supplied to the Commission by, or on behalf of, the applicant as they consider appropriate.

(2) Where the Commissioners consider that they have insufficient information on which to decide whether to grant or refuse the application, they shall defer their decision on the application and —

- (a) shall cause an appropriate requirement under regulation 25 to be made; and
- (b) may invite a representative of the applicant to attend before them for interview.