

## **Alderney eGambling Regulations 2009**

THE ALDERNEY GAMBLING CONTROL COMMISSION, in exercise of the powers conferred upon it by sections 1(2)(c), 4(2), 4(3), 5(3), 6(2), 7(1), 7(2), 10(2), 11, 12(2), 12(5), 14(3), 14(5), 14(6), 15(5), 15(6), 15(7), 15(9), 16(2), 17(1), 18(1), 19(1), 20, 21(3), 22, 27, 30, of the Alderney eGambling Ordinance, 2009 and all other powers thereto enabling, hereby makes the following Regulations: —

### **PART I - eGAMBLING LICENCES**

#### **CHAPTER I - PRELIMINARY**

##### **Categories of eGambling licence**

1. These regulations provide for three different categories of eGambling licence —
  - (a) Category 1 eGambling licences, that permit the Category 1 eGambling licensee to contract with customers to organise and prepare the customer for gambling, as detailed in Chapter II of this Part;
  - (b) Category 2 eGambling licences, that permit the Category 2 eGambling licensee to effect gambling transactions, as detailed in Chapter III of this Part; and
  - (c) Temporary eGambling licences, that are primarily designed for temporary use by foreign company licensees whilst their usual gambling operations are interrupted, as detailed in Chapter IV of this Part.

##### **Interpretation of this Part**

2. (1) In this Part, the terms “eGambling licence” and “licence” mean, unless otherwise specified or unless the context otherwise requires, an eGambling licence of any category.  
(2) The provisions of Chapters V and VI of this Part apply to all categories of eGambling licence, unless otherwise specified or unless the context otherwise requires.

#### **CHAPTER II - CATEGORY 1 eGAMBLING LICENCES**

##### **Category 1 eGambling Licences**

3. (1) A Category 1 eGambling licence permits a Category 1 eGambling licensee to contract with customers to organise and prepare the customer to gamble.  
(2) Activities that organise and prepare a customer to gamble include, but are not limited to, one or more of the following activities —
  - (a) entering into an agreement with the customer;
  - (b) registration and verification of the customer;
  - (c) management of the customer’s funds;
  - (d) offering or promoting gambling to the customer;
  - (e) such other actions that the Commission determines to be activities that may only be carried out by a Category 1 eGambling licensee.
- (3) In accordance with section 5 of the Ordinance, a Category 1 eGambling licence may only be held by an Alderney company.

(4) A Category 1 eGambling licensee may not effect a gambling transaction unless it also holds a Category 2 eGambling licence.

#### **General Conditions of Category 1 Licence**

4. A Category 1 eGambling licence issued by the Commission under section 7 of the Ordinance is subject to the following general conditions —

- (a) a Category 1 eGambling licensee shall not transfer a customer to, or allow a customer to gamble with or through, any entity other than —
  - (i) a Category 2 eGambling licensee; or
  - (ii) the holder of a foreign gambling associate certificate,unless the customer is notified and warned, in the manner specified in the Category 1 eGambling licensee's approved internal control system, of the matters specified in section 1(3) of the Ordinance;
- (b) in no circumstances may cash be accepted from a customer by, or on behalf of, the Category 1 eGambling licensee;
- (c) any advertising carried out by, or conducted on behalf of, the Category 1 eGambling licensee —
  - (i) must be truthful;
  - (ii) must not be distasteful;
  - (iii) must not promote gambling by, with or through persons under the age of 18 years, and this factor must be taken into account when determining media selection and placement of the advertising;
  - (iv) must not encourage people to engage in excessive participation in eGambling that would be socially irresponsible or could result in harm to them or others;
  - (v) must not imply or convey any message that a person's status, general abilities or social success can be attributable to gambling;
  - (vi) must not challenge or dare people to participate in eGambling;
  - (vii) must not, having regard to the expected returns to customers through eGambling, promote or suggest any unrealistic expectation of winning;
  - (viii) must not bring into disrepute —
    - (A) the Island of Alderney;
    - (B) the Commission; or
    - (C) in any broader context, the Bailiwick of Guernsey; and
  - (ix) must comply with any requirements relating to the content or nature of advertising imposed in the jurisdiction covering the target market for that advertising;
- (d) the Category 1 eGambling licensee must appoint an executive officer to fulfil the duties of compliance officer, who will report to the Commission on all compliance matters;
- (e) the Category 1 eGambling licensee must appoint an executive officer, who may, but need not be, the compliance officer, to act as its money laundering reporting officer;
- (f) the Category 1 eGambling licensee must use reasonable endeavours to keep abreast of international developments as they affect the lawfulness of any form of eGambling in order, so far as is reasonably practicable, not to allow eGambling where to do so would constitute criminal activity by its customers;
- (g) the Category 1 eGambling licensee must within 48 hours of any serious incident negatively affecting the operation of its eGambling licence notify the Commission in

writing of the details and consequences of the incident and of the remedial steps, if any, taken;

- (h) the Category 1 eGambling licensee must give notification in writing to the Commission containing full details within seven days of the occurrence of any of the following relevant events —
  - (i) when the status of any licence or permission however described allowing it, or one of its associates, to conduct or otherwise be involved in any form of gambling in another jurisdiction changes, including (without limitation) where the licence or permission is voluntarily surrendered, made subject to different conditions, suspended or revoked or some other sanction in respect of it is imposed on the holder;
  - (ii) when the beneficial ownership of the licensee, or of any parent company of the licensee, or of any associated company within the group of companies to which the licensee belongs, has changed so that a person's shareholding is, or becomes, 3% or more;
  - (iii) when the licensee decides that it will change the auditors it uses for the purpose of regulation 245; or
  - (iv) when a material change is discovered in the information previously supplied by it to the Commission, whether prior to being granted the licence or subsequently, to which the Commission would be able to have regard in considering whether or not the licensee is a fit and proper person to hold a Category 1 eGambling licence;
- (i) the Category 1 eGambling licensee shall, before it commences to operate under its licence, notify the Commission of the day that such operations are to commence;
- (j) upon being given reasonable notice, which shall wherever possible be not less than seven days, the Category 1 eGambling licensee shall attend at a meeting of the Commissioners for the purpose set out in the notice;
- (k) the Category 1 eGambling licensee must maintain and operate its gambling equipment in premises that the Commission is satisfied are suitable and secure at all times, and for this purpose if the gambling equipment is not situated in approved premises controlled by the holder of a hosting certificate —
  - (i) upon request from a duly authorised officer of the Commission about the level of activity being undertaken by the licensee at the premises housing the gambling equipment, the licensee must, as soon as reasonably practicable, provide the information requested or explain why that information cannot be supplied;
  - (ii) the licensee must within 48 hours of any serious incident negatively affecting the operations of any service provided to it at the premises housing the gambling equipment notify the Commission in writing of the details and consequences of the incident and of the remedial steps, if any, taken; and
  - (iii) the licensee must within seven days of a material change in information previously supplied by it to the Commission in relation to the premises housing the gambling equipment (whether prior to being granted the licence or subsequently), give written notice to the Commission containing full details so that the Commission can assess whether or not the gambling equipment is housed suitably and securely; and
- (l) the Category 1 eGambling licensee must take note and meet the requirements (if any) of all notices, instructions and counter-measures (whether described as "Business from Sensitive Sources Notices" or otherwise) issued by the Commission and designed to alert and advise it of weaknesses in the anti-money laundering systems in other countries or territories where the Category 1 eGambling licensee may operate.

## CHAPTER III - CATEGORY 2 eGAMBLING LICENCES

### **Category 2 eGambling Licences**

5. (1) A Category 2 eGambling licence permits a Category 2 eGambling licensee to effect gambling transactions.

(2) Effecting a gambling transaction includes, but is not limited to, one or more of the following activities —

- (a) striking a bet;
- (b) housing and recording the random element or gambling transaction outcome;
- (c) operating a system of hardware and software upon which the gambling transaction is conducted;
- (d) such other action that the Commission determines to be an activity that constitutes effecting a gambling transaction.

(3) A Category 2 eGambling licensee may —

- (a) operate more than one form of gambling;
- (b) operate multiple gambling platforms;
- (c) operate gambling on behalf of a Category 1 licensee or on behalf of operators based elsewhere in the world, as prescribed by these regulations and any general or special conditions that apply.

(4) In accordance with section 5 of the Ordinance, a Category 2 eGambling licence may only be held by an Alderney company.

(5) A Category 2 eGambling licensee may not contract directly with customers unless it also holds a Category 1 eGambling licence.

### **General Conditions of Category 2 Licence**

6. A Category 2 eGambling licence issued by the Commission under section 7 of the Ordinance is subject to the following general conditions —

- (a) a Category 2 eGambling licensee shall not transfer a customer to, or allow a customer to gamble with or through, any entity other than —
  - (i) another Category 2 eGambling licensee; or
  - (ii) the holder of a foreign gambling associate certificate;unless the customer is notified and warned, in the manner prescribed in the licensee's approved internal control system, of the matters specified in section 1(3) of the Ordinance;
- (b) in no circumstances may cash be accepted from a customer by, or on behalf of, the Category 2 eGambling licensee;
- (c) any advertising carried out by, or conducted on behalf of, the Category 2 eGambling licensee —
  - (i) must be truthful;
  - (ii) must not be distasteful;
  - (iii) must not promote gambling by, with or through persons under the age of 18 years, and this factor must be taken into account when determining media selection and placement of the advertising;
  - (iv) must not encourage people to engage in excessive participation in eGambling that would be socially irresponsible or could result in harm to them or others;

- (v) must not imply or convey any message that a person's status, general abilities or social success can be attributable to gambling;
  - (vi) must not challenge or dare people to participate in eGambling;
  - (vii) must not, having regard to the expected returns to customers through eGambling, promote or suggest any unrealistic expectation of winning;
  - (viii) must not bring into disrepute —
    - (A) the Island of Alderney,
    - (B) the Commission, or
    - (C) in any broader context, the Bailiwick of Guernsey; and
  - (ix) must comply with any requirements relating to the content or nature of advertising imposed in the jurisdiction covering the target market for that advertising;
- (d) the Category 2 eGambling licensee must appoint an executive officer to fulfil the duties of compliance officer, who will report to the Commission on all compliance matters;
  - (e) the Category 2 eGambling licensee must appoint an executive officer, who may, but need not be, the compliance officer, to act as its money laundering reporting officer;
  - (f) the Category 2 eGambling licensee must use reasonable endeavours to keep abreast of international developments as they affect the lawfulness of any form of eGambling in order, so far as is reasonably practicable, not to allow eGambling where to do so would constitute criminal activity by its customer;
  - (g) the Category 2 eGambling licensee must within 48 hours of any serious incident negatively affecting the operation of its Category 2 eGambling licence notify the Commission in writing of the details and consequences of the incident and of the remedial steps, if any, taken;
  - (h) the Category 2 eGambling licensee must give notification in writing to the Commission containing full details within seven days of the occurrence of any of the following relevant events —
    - (i) when the status of any licence or permission however described allowing it, or one of its associates, to conduct or otherwise be involved in any form of gambling in another jurisdiction changes, including (without limitation) where the licence or permission is voluntarily surrendered, made subject to different conditions, suspended or revoked or some other sanction in respect of it is imposed on the holder;
    - (ii) when the beneficial ownership of the licensee, or of any parent company of the licensee, or of any associated company within the group of companies to which the licensee belongs, has changed so that a person's shareholding is, or becomes, 3% or more;
    - (iii) when the licensee decides that it will change the auditors it uses for the purpose of regulation 245; or
    - (iv) when a material change is discovered in the information previously supplied by it to the Commission, whether prior to being granted the licence or subsequently, to which the Commission would be able to have regard in considering whether or not the licensee is a fit and proper person to hold a Category 2 eGambling licence;
  - (i) the Category 2 eGambling licensee shall, before it commences to operate under its licence, notify the Commission of the day that such operations are to commence;

- (j) upon being given reasonable notice, which shall wherever possible be not less than seven days, the Category 2 eGambling licensee shall attend at a meeting of the Commissioners for the purpose set out in the notice; and
- (k) the Category 2 eGambling licensee must maintain and operate its gambling equipment in premises that the Commission is satisfied are suitable and secure at all times, and for this purpose if the gambling equipment is not situated in approved premises controlled by the holder of a hosting certificate –
  - (i) upon request from a duly authorised officer of the Commission about the level of activity being undertaken by the licensee at the premises housing the gambling equipment, the licensee must, as soon as reasonably practicable, provide the information requested or explain why that information cannot be supplied;
  - (ii) the licensee must within 48 hours of any serious incident negatively affecting the operations of any service provided to it at the premises housing the gambling equipment notify the Commission in writing of the details and consequences of the incident and of the remedial steps, if any, taken; and
  - (iii) the licensee must within seven days of a material change in information previously supplied by it to the Commission in relation to the premises housing the gambling equipment (whether prior to being granted the licence or subsequently), give written notice to the Commission containing full details so that the Commission can assess whether or not the gambling equipment is housed suitably and securely.

#### CHAPTER IV - TEMPORARY eGAMBLING LICENCES

##### **Temporary eGambling Licences**

7. (1) A Temporary eGambling licence permits a foreign company licensee to act both as a Category 1 eGambling licensee to contract with customers to organise and prepare the customer to gamble as prescribed by regulation 3(2) and as a Category 2 eGambling licensee to effect a gambling transaction as prescribed in regulation 5(2); for a limited period only for the specific purposes set out in these regulations and the conditions attached to the licence.

(2) Subject to these regulations and any special conditions attached to its licence, whilst operating under its Temporary eGambling licence the Temporary eGambling licensee shall have all the rights and obligations of a Category 1 eGambling licensee or a Category 2 eGambling licensee, as the case may be, unless a contrary intention is expressed or required by the circumstances or context.

(3) In accordance with section 5(4) of the Ordinance a Temporary eGambling licence may not be held by an Alderney company.

##### **General conditions attaching to Temporary eGambling licence.**

8. (1) A Temporary eGambling licence issued by the Commission under section 7 of the Ordinance is subject to the following conditions —

- (a) a Temporary eGambling licensee must hold, and continue to hold, a licence or permission (however described) from some other jurisdiction allowing it to conduct an equivalent form of eGambling to that which it proposes to conduct under its Temporary eGambling licence;
- (b) in no circumstances may cash be accepted from a customer by, or on behalf of, the Temporary eGambling licensee;
- (c) any advertising carried out by, or conducted on behalf of, the Temporary eGambling licensee whilst operating under that Temporary eGambling licence and coming to the attention of the Commission —
  - (i) must be truthful;

- (ii) must not be distasteful;
  - (iii) must not promote gambling by, with or through persons under the age of 18 years, and this factor must be taken into account when determining media selection and placement of the advertising;
  - (iv) must not encourage people to engage in excessive participation in eGambling that would be socially irresponsible or could result in harm to them or others;
  - (v) must not imply or convey any message that a person's status, general abilities or social success can be attributable to gambling;
  - (vi) must not challenge or dare people to participate in eGambling;
  - (vii) must not, having regard to the expected returns to customers through eGambling, promote or suggest any unrealistic expectation of winning;
  - (viii) must not bring into disrepute —
    - (A) the Island of Alderney;
    - (B) the Commission or;
    - (C) in any broader context, the Bailiwick of Guernsey,; and
  - (ix) must comply with any requirements relating to the content or nature of advertising imposed in the jurisdiction covering the target market for that advertising;
- (d) the Temporary eGambling licensee must use reasonable endeavours to keep abreast of international developments as they affect the lawfulness of any form of eGambling in order, so far as is reasonably practicable, not to allow eGambling when it exercises its Temporary eGambling licence where to do so would constitute criminal activity by its customers;
- (e) the Temporary eGambling licensee must give notification in writing to the Commission containing full details within seven days of any of the following relevant events —
- (i) when the status of any licence or permission however described allowing it, or one of its associates, to conduct or otherwise be involved in any form of gambling in another jurisdiction changes, including (without limitation) where the licence or permission is voluntarily surrendered, made subject to different conditions, suspended or revoked or some other sanction in respect of it is imposed on the holder;
  - (ii) when the beneficial ownership of the licensee, or of any parent company of the licensee, or of any associated company within the group of companies to which the licensee belongs, has changed so that a person's shareholding is, or becomes, 3% or more;
  - (iii) when the licensee decides that it will change the auditors it uses for the purpose of regulation 245; or
  - (iv) when a material change is discovered in the information previously supplied by it to the Commission, whether prior to being granted the licence or subsequently, to which the Commission would be able to have regard in considering whether or not the licensee is a fit and proper person to hold a Temporary eGambling licence;
- (f) upon being given reasonable notice, which shall wherever possible be not less than seven days, the Temporary eGambling licensee shall attend at a meeting of the Commissioners for the purpose set out in the notice;
- (g) the Temporary eGambling licensee must maintain and operate its gambling equipment in premises that the Commission is satisfied are suitable and secure at all

times, and for this purpose if the gambling equipment is not situated in approved premises controlled by the holder of a hosting certificate –

- (i) upon request from a duly authorised officer of the Commission about the level of activity being undertaken by the licensee at the premises housing the gambling equipment, the licensee must, as soon as reasonably practicable, provide the information requested or explain why that information cannot be supplied;
  - (ii) the licensee must within 48 hours of any serious incident negatively affecting the operations of any service provided to it at the premises housing the gambling equipment notify the Commission in writing of the details and consequences of the incident and of the remedial steps, if any, taken; and
  - (iii) the licensee must within 7 days of a material change in information previously supplied by it to the Commission in relation to the premises housing the gambling equipment (whether prior to being granted the licence or subsequently), give written notice to the Commission containing full details so that the Commission can assess whether or not the gambling equipment is housed suitably and securely;
- (h) the Temporary eGambling licensee must, at all times whilst operating under its Temporary eGambling licence, operate under an internal control system that provides a safe, secure and fair system for the conduct of gambling; and
  - (i) the Temporary eGambling licensee must, at all times whilst operating under its Temporary eGambling licence, only utilise gambling equipment that is safe, secure and fair to conduct its business of facilitating or effecting gambling transactions.

(2) Pursuant to section 14(5) of the Ordinance, the following provisions shall apply with respect to the internal control system of a Temporary eGambling licensee –

- (a) regulation 175 is the only regulation within Chapters I and II of Part V that shall apply to a Temporary eGambling licensee;
- (b) when submitting its application under regulation 16 or upon request made by the Commission at any time, the Temporary eGambling licensee shall provide details of its internal control system and demonstrate how it operates under that internal control system;
- (c) the Commission shall evaluate the Temporary eGambling licensee's internal control system to determine that it contains all of the information required by regulation 175; and
- (d) the Commission shall decide if it is satisfied that the internal control system used by the Temporary eGambling licensee provides a safe, secure and fair system for the conduct of eGambling and in making that decision the Commission shall take into account whether the internal control system –
  - (i) satisfies the requirements of the Ordinance and these regulations;
  - (ii) is capable of providing satisfactory and effective control over the conduct of any form of eGambling the Temporary eGambling licensee proposes to operate; and
  - (iii) complies with the internal control system requirements of the primary licensing authority of the jurisdiction referred to in regulation 8(1)(a).

(3) Pursuant to section 15(9) of the Ordinance, the following provisions shall apply with respect to the gambling equipment of a Temporary eGambling licensee –

- (a) Chapters III and IV of Part V of these regulations shall not apply to a Temporary eGambling licensee;
- (b) when submitting its application under regulation 16 or upon request made by the Commission at any time, the Temporary eGambling licensee shall provide full details of its gambling equipment; and

- (c) the Commission shall decide if it is satisfied that the gambling equipment that the Temporary eGambling licensee utilises to conduct its business of facilitating or effecting gambling transactions is safe, secure and fair and in making that decision the Commission shall take into account whether –
- (i) the equipment is in use in other situations and is known to be generally suitable;
  - (ii) the equipment has been approved by the Commission or by some other authority that has adopted operating standards equivalent to those approved by the International Association of Gambling Regulators; and
  - (iii) the equipment is technically and operationally capable of being —
    - (A) utilised safely, securely and fairly, when taken both individually and collectively, in the conduct of any form of eGambling the licensee proposes to operate; and
    - (B) interrogated, and subjected to audit, by, or on behalf of, the Commission, whether in accordance with monitoring conducted under regulation 249 or otherwise.

**General requirement for exercise of Temporary eGambling licence.**

9. (1) Unless a Temporary eGambling licensee is given an exemption or dispensation contained in a written notice given to it by the Commission under this regulation, whether at the same time as its Temporary eGambling licence is issued under section 7 of the Ordinance or subsequently, it shall comply with all the requirements imposed on an eGambling licensee under the Ordinance and these Regulations.

(2) An application for an exemption or dispensation in accordance with paragraph (1) shall be made by letter signed by a duly authorised officer of an applicant for a Temporary eGambling licence or, as the case may be, of a Temporary eGambling licensee, setting out the reason for the application and delivered to the offices of the Commission.

(3) After consideration of the application under paragraph (2), the Commission may grant or refuse the application for an exemption or dispensation and shall give the applicant written notice of its decision and the reasons for it.

**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, 1994<sup>1</sup> 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.

### **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.

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<sup>1</sup> Order in Council No. XXXIV of 1994, I of 2001, XV of 2002.

(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.

### **Notification of refusal.**

31. If the Commissioners refuse to grant an application for an eGambling licence, the Commission shall give the applicant written notice of the decision and of the reasons for the refusal.

### **Form of eGambling licence.**

32. If the Commissioners grant an application for an eGambling licence, the licence issued under section 7 of the Ordinance shall be in the form set out in Schedule 3.

### **Payment of investigation costs not deposited.**

33. Where the costs payable by an applicant under section 6(1) of the Ordinance exceed the total of the monies deposited in accordance with regulation 17 and, where applicable, regulation 27, the eGambling licence shall not be exercisable by the eGambling licensee until payment of the amount by which the costs incurred exceeded the amount deposited, as notified to it in writing by the Commission, has been received by the Commission.

### **Re-allocation or return of surplus investigation monies deposited.**

34. After determining an application for an eGambling licence, the Commission shall, in respect of the monies not drawn by it from those deposited by the applicant in accordance with regulation 17 or, where applicable, regulation 27 for processing, investigating and determining the application —

- (a) where the applicant is granted an eGambling licence —
  - (i) retain all the monies and treat them as having been deposited with it in accordance with regulation 260; or
  - (ii) retain only such specific amount, if any, as the applicant has indicated it wishes the Commission to continue to hold and apply towards the amount to be deposited in accordance with regulation 260 and repay to the applicant the balance; or
- (b) where the application was refused, repay the whole amount to the applicant.

**Accounting for investigation monies deposited.**

35. The Commission shall, whenever requested to do so by an applicant, account to the applicant in respect of the costs as at that time incurred by the Commission in respect of the application.

DIVISION 2 - LICENCE CONDITIONS

**Imposition or change of licence conditions.**

36. (1) Where the Commission considers it necessary, expedient or desirable to —
- (a) attach a condition to an eGambling licence;
  - (b) modify an existing condition attached to an eGambling licence; or
  - (c) rescind an existing condition attached to an eGambling licence,

it shall issue to the eGambling licensee a notice in writing (a “**condition notice**”) which shall explain the proposed change of condition and set out the Commission’s reasons for the change.

- (2) Subject to regulation 37, a change of conditions takes effect on —
- (a) the day on which the condition notice is given to the eGambling licensee; or
  - (b) such later day as is specified in the condition notice.

**Challenge to condition notice.**

37. (1) If an eGambling licensee wishes to make representations to the Commission about anything in the condition notice, it may do so in writing within seven days of receipt of the condition notice.

(2) Representations under paragraph (1) may include a request that the date from which the change of conditions takes effect be postponed until the Commission has considered the representations.

(3) After consideration of an eGambling licensee’s representations, the Commission may confirm, modify or withdraw the condition notice.

(4) The Commission shall give the eGambling licensee written notice of its decision under this regulation and of the reasons for it.

**Return of eGambling licence for endorsement of changed conditions.**

38. (1) An eGambling licensee shall return its eGambling licence to the Commission within seven days of —

- (a) receiving a condition notice; or,
- (b) where it exercises its right to make representations in accordance with regulation 37, receipt of a notice from the Commission in accordance with regulation 37(4) confirming or modifying the condition notice.

(2) On receiving the eGambling licence, the Commission shall —

- (a) amend the licence in an appropriate way and return the amended licence to the eGambling licensee; or
- (b) if the Commission does not consider that it is practicable to amend the licence, issue an appropriate replacement eGambling licence free of charge, incorporating the change of conditions to the eGambling licence.

(3) A change of conditions does not depend on the eGambling licence being amended to record the change or a replacement eGambling licence being issued.

## DIVISION 3 - MODIFICATION TO AND SURRENDER OF LICENCE

### **Modification to eGambling licence.**

**39.** (1) An eGambling licensee who wants or needs to obtain the Commission's approval for a proposed modification to the details contained on its eGambling licence shall make application by letter to the Commission setting out the modification for which it seeks approval.

(2) Without prejudice to the generality of paragraph (1), an application is required within seven days of —

- (a) an eGambling licensee's name changing; or
- (b) an eGambling licensee's registered office changing.

(3) An application under paragraph (1) shall be accompanied by —

- (a) the eGambling licensee's eGambling licence;
- (b) where applicable, a certified copy of the resolution of the eGambling licensee effecting the change in question; and
- (c) payment in respect of the relevant administration charge specified in Schedule 21.

(4) If the Commission refuses to grant an application under this regulation, it shall return the eGambling licensee's eGambling licence and give to it written notice of its decision and of the reasons for the refusal.

(5) If the Commission grants an application under this regulation, it shall —

- (a) amend the eGambling licence in an appropriate way and return the amended licence to the eGambling licensee; or
- (b) if the Commission does not consider that it is practicable to amend the eGambling licence, issue a replacement eGambling licence free of charge, incorporating the change of conditions to the eGambling licence.

### **Surrender of eGambling licence.**

**40.** (1) An eGambling licensee may surrender its eGambling licence by written notice (a "surrender notice") given to the Commission.

(2) The surrender takes effect —

- (a) on the day specified in the surrender notice; or
- (b) if no day is specified in the surrender notice, one month after the surrender notice is given to the Commission.

(3) A person who has surrendered an eGambling licence must, unless it provides an explanation which is acceptable to the Commission, return the licence to the Commission within seven days after the day on which the surrender takes effect.

## CHAPTER VI - SUSPENSION, REVOCATION AND OTHER SANCTIONS

### **Fit and proper test and properly licensed test: eGambling licensee.**

**41.** (1) For the purposes of section 12(1)(a) of the Ordinance, in deciding whether an eGambling licensee continues to be a fit and proper person to hold that licence, the Commission shall have regard to the following matters —

- (a) the eGambling licensee's character;
- (b) the eGambling licensee's business reputation;
- (c) the eGambling licensee's current financial position and financial background;

- (d) the level and nature of the contribution made by, or on behalf of, the eGambling licensee to any appropriate body involved in conducting research into, or providing education about, the risks of gambling or the treatment of problem gamblers;
- (e) actions taken, by a Category 1 eGambling licensee, under regulation 236 to discover and combat problem gambling;
- (f) whether the eGambling licensee has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (g) whether an associate of the eGambling licensee satisfies regulation 42;
- (h) whether the eGambling licensee has, or is able to obtain, appropriate resources and appropriate services; and
- (i) whether the eGambling licensee has the appropriate business ability to conduct eGambling successfully under an eGambling licence.

(2) For the purposes of section 12(1)(a) of the Ordinance, in deciding whether an eGambling licensee continues to be a fit and proper person to hold that licence, the Commission may have regard to —

- (a) any changes to the validity of any other licence or permission however described held at the time the eGambling licence was issued or obtained since then allowing the eGambling licensee, or an associate, to conduct any form of gambling lawfully in another jurisdiction; and
- (b) any penalties or sanctions however described imposed on the eGambling licensee, or an associate, by gambling or other regulators outside Alderney.

(3) For the purposes of section 12(1)(d) of the Ordinance, in deciding whether a Temporary eGambling licensee is no longer licensed or properly licensed in another jurisdiction to conduct eGambling operations, the Commission shall have regard to the following matters —

- (a) any changes to the validity of any other licence or permission (however described) held at the time the Temporary eGambling licence was issued which enable the Temporary eGambling licensee, or an associate, to conduct any form of gambling lawfully in another jurisdiction; and
- (b) any changes to the relevant regulatory requirements in the jurisdiction in which the Temporary eGambling licensee holds any other licence or permission (however described) which enable the Temporary eGambling licensee, or an associate, to conduct any form of gambling lawfully.

**Fit and proper test: associate.**

**42.** (1) For the purposes of section 12(1)(b) of the Ordinance, in deciding whether an associate of an eGambling licensee continues to be a fit and proper person to be associated with the operations conducted by the eGambling licensee —

- (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 Commission 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 Commission 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 eGambling licensee to conduct eGambling successfully under its eGambling licence.

(2) For the purposes of section 12(1)(b) of the Ordinance, in deciding whether an associate who does not hold an associate certificate or a hosting certificate continues to be a fit and proper person to be associated with the operations conducted by the eGambling licensee, the Commission may have regard to —

- (a) any changes to the validity of any other licence or permission however described held by the associate allowing it to conduct any form of gambling lawfully in another jurisdiction; and
- (b) any penalties or sanctions however described imposed on the associate by gambling or other regulators outside Alderney.

**Rectification: Commission proposal.**

43. (1) Where the Commission believes that —

- (a) a ground referred to in section 12(1) of the Ordinance exists; and
- (b) it is appropriate to give the eGambling licensee an opportunity to rectify the matter or matters giving rise to the Commission’s belief that such a ground exists,

it shall issue to the eGambling licensee a notice in writing (a “**rectification proposal**”) which shall explain the proposed direction under regulation 44 and set out the Commission’s reasons for proposing to give the direction.

(2) If an eGambling licensee wishes to make representations to the Commission about anything in the rectification proposal, it may do so in writing within seven days of receipt of the rectification proposal.

(3) After consideration of an eGambling licensee’s representations, the Commission may –

- (a) confirm, modify or withdraw the rectification proposal; or
- (b) take no further action concerning the rectification proposal indefinitely, or for such period as the Commission considers appropriate.

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

**Direction to rectify.**

44. (1) Where —

- (a) an eGambling licensee elects not to make any representations in accordance with regulation 43(2); or
- (b) after considering an eGambling licensee’s representations, the Commission decides to confirm or modify its proposals as set out in the rectification proposal,

the Commission shall, by written notice to the eGambling licensee (a “**rectification notice**”), direct it to rectify the matter or matters specified in the notice in the manner specified in the notice within the period of time specified in the notice.

(2) A rectification notice shall warn the eGambling licensee of the consequences of failing to comply with the notice as specified in regulation 46(2).

(3) During the period of time specified in a rectification notice, its terms may be modified in any way that the Commission sees fit, whether as a result of written representations from the eGambling licensee or of the Commission’s own motion.

**Written caution.**

45. Where the Commission is satisfied that —

- (a) a ground referred to in section 12(1) of the Ordinance —
  - (i) exists; or

- (ii) existed and has been resolved, whether voluntarily or in accordance with a rectification notice; and
- (b) it is appropriate to give the eGambling licensee formal notice warning it about the consequences of any repetition of the type of act or omission giving rise to the Commission's view,

it may issue to the eGambling licensee a notice in writing setting out the basis for its finding that a ground in section 12(1) of the Ordinance has arisen and warn the eGambling licensee of the consequences of any repetition of the same or a similar type of act or omission.

**Regulatory hearing: notice.**

**46.** (1) Where the Chief Executive Officer believes that —

- (a) a ground referred to in section 12(1) of the Ordinance exists; and
- (b) the circumstances are such that it is necessary to convene a hearing of the Commissioners at which the eGambling licensee shall be given the opportunity of making representations in response,

he shall give to the eGambling licensee a notice in writing (a “**hearing notice**”) which shall explain that the Chief Executive Officer is recommending to the Commission that it should impose a financial penalty or suspend or revoke the eGambling licence and set out the Chief Executive Officer's reasons for convening the hearing.

(2) Where the Chief Executive Officer believes that a rectification notice has not been fully complied with, he shall give to the eGambling licensee a hearing notice which shall explain that the Chief Executive Officer is recommending to the Commission that it should impose a financial penalty or suspend or revoke the eGambling licence and set out the Chief Executive Officer's reasons for convening the hearing.

(3) A hearing notice shall give at least seven days' notice of the hearing to the eGambling licensee and appoint a date, time and place for the hearing.

(4) An eGambling licensee may elect not to attend the hearing convened by the hearing notice and confine its representations to any it wishes to make in writing to the Commission prior to the date of the hearing.

**Immediate suspension.**

**47.** (1) At the same time as giving a hearing notice, the Chief Executive Officer may, with the approval of at least one Commissioner, suspend an eGambling licence under this regulation if he is satisfied on reasonable grounds that —

- (a) a ground referred to in section 12(1) of the Ordinance exists;
- (b) the seriousness and urgency of the matter requires that immediate action be taken ahead of a regulatory hearing;
- (c) the seriousness and urgency of the matter do not permit the taking of action by way of a rectification proposal; and
- (d) the circumstances require that the eGambling licence be suspended to ensure that —
  - (i) the public interest is not affected in an adverse and material way; or
  - (ii) the integrity of the eGambling licensee's operation is not jeopardised in any way.

(2) A suspension under this regulation —

- (a) shall be effected by written notice given to the eGambling licensee (a “**suspension notice**”);
- (b) takes effect immediately when the suspension notice is given; and
- (c) is effective until —

- (i) the Commissioners have reached a determination at the conclusion of the hearing convened in accordance with regulation 46; or
- (ii) it is cancelled by notice in writing of the Chief Executive Officer in accordance with regulation 48.

**Cancellation of suspension notice.**

48. (1) If an eGambling licensee wishes to request that the immediate suspension imposed by a suspension notice be cancelled, it may make representations in writing to the Chief Executive Officer at any time whilst the suspension is effective.

(2) After consideration of an eGambling licensee's representations, the Chief Executive Officer, with the approval of at least one Commissioner, may confirm or cancel the suspension notice.

(3) The Chief Executive Officer shall give the eGambling licensee written notice of the decision under paragraph (2) and of the reasons for it.

(4) Where, prior to the Commission reaching a determination at the conclusion of the hearing convened in accordance with regulation 46, the Chief Executive Officer considers that it is no longer necessary to continue the suspension of an eGambling licence, he shall, with the approval of at least one Commissioner, cancel the suspension notice and give written notice to that effect to the eGambling licensee.

**Conduct of regulatory hearing.**

49. (1) At a hearing convened in accordance with regulation 46 —

- (a) the proceedings shall be opened and directed by the Chairman of the Commission or, in his absence, the Commissioner presiding at the hearing, who shall be responsible for the proper conduct of the hearing;
- (b) the Commissioners shall, so far as it appears to them appropriate, seek to avoid formality in their proceedings and shall conduct the hearing in such manner as they consider most appropriate for the clarification of the issues before them and generally to the just handling of the hearing; and
- (c) the eGambling licensee may appear before the Commissioners through any representative.

(2) Without prejudice to the generality of paragraph (1)(b), where the eGambling licensee indicates that it wishes to challenge the allegation set out in the hearing notice given to it, the Commissioners may adopt the following procedure —

- (a) a duly authorised officer of the Commission or any representative of that officer shall first be invited to present the case setting out the ground under section 12(1) of the Ordinance alleged against the eGambling licensee and may, for that purpose, call unsworn evidence from witnesses and produce documents;
- (b) in the event that a witness gives evidence in support of the duly authorised officer's presentation, cross-examination by the eGambling licensee's representative and re-examination by the duly authorised officer or his representative shall be permitted;
- (c) the representative of the eGambling licensee shall next present its response and may, for that purpose, call unsworn evidence from witnesses and produce documents;
- (d) in the event that a witness gives evidence in support of the eGambling licensee's presentation, cross-examination by the duly authorised officer or his representative and re-examination by the representative of the eGambling licensee shall be permitted;
- (e) written representations may be lodged with the Commissioners by, or on behalf of, the duly authorised officer or the eGambling licensee before or during the hearing or in such other manner as the Commissioners may direct;

- (f) questions may be asked at any time by the Commissioners; and
- (g) the Commissioners may proceed to determining whether or not a ground referred to in section 12(1) of the Ordinance has been established before inviting comments from the representative of the eGambling licensee in relation to any appropriate sanction.

(3) Where the Commissioners proceed in accordance with paragraph (2)(g) and determine that a ground referred to in section 12(1) of the Ordinance has been established, they shall provide an opportunity for the representative of the eGambling licensee to offer any explanation and make such other comment as he wishes.

(4) Without prejudice to the generality of paragraph (1)(b), where the eGambling licensee indicates that it accepts the allegation set out in the hearing notice given to it, the Commissioners may adopt the following procedure —

- (a) a duly authorised officer of the Commission or any representative of that officer may first be invited to summarise the case setting out the ground under section 12(1) of the Ordinance alleged against the eGambling licensee;
- (b) the representative of the eGambling licensee shall be provided with the opportunity to offer any explanation and make such other comment as he wishes; and
- (c) questions may be asked at any time by the Commissioners.

(5) A hearing under this regulation may be adjourned by the Commissioners at any time and for any purpose.

(6) Unless the Commissioners otherwise direct, a hearing under this regulation shall be held in public in Alderney.

#### **Regulatory hearing: Commissioners' determination.**

**50.** (1) During or at the conclusion of a hearing convened in accordance with regulation 46, having taken into account everything said before and lodged with them, the Commissioners shall first determine whether the existence of a ground referred to in section 12(1) of the Ordinance has been accepted by, or established against, the eGambling licensee and —

- (a) if so, shall then determine which of the actions specified in section 12(3) of the Ordinance, if any, to take in respect of the eGambling licensee or, as the case may be, its licence; or
- (b) if not, shall direct that the allegation against it be recorded as not having been established.

(2) The Commission shall give the eGambling licensee written notice of its decision under this regulation and of the reasons for it (a “**determination notice**”).

#### **Financial penalties.**

**51.** (1) Where the Commissioners decide to impose a financial penalty on an eGambling licensee —

- (a) the amount shall not exceed £25,000; and
- (b) the determination notice shall direct whether the penalty is payable immediately or is to be of suspended effect.

(2) Where a financial penalty is payable immediately, the amount shall be paid to the Commission as agent for the States in the manner specified in the determination notice.

(3) Where the Commissioners direct that a financial penalty shall be of suspended effect, the determination notice shall specify the period, which shall not in any event exceed 12 months, during which the penalty is capable of being activated in accordance with regulation 52 and, at the end of the period so specified, the penalty shall no longer be capable of taking effect.

### **Activation of suspended financial penalty.**

**52.** (1) Where, during the period of suspension specified in a determination notice, the Chief Executive Officer believes that a ground in section 12(1) of the Ordinance exists, the hearing notice that may be given to the eGambling licensee in accordance with regulation 46 shall also explain that the Chief Executive Officer is recommending to the Commission that it should consider activating the suspended financial penalty.

(2) If, at the conclusion of a hearing convened by such a hearing notice, the Commissioners are satisfied that a ground in section 12(1) of the Ordinance exists, or existed at the time of the hearing notice, having taken into account the representations of the eGambling licensee, the Commission's determination notice shall direct that the original financial penalty of suspended effect —

- (a) shall be payable to it as agent of the States immediately in the manner specified in the determination notice —
  - (i) with the original amount unaltered; or
  - (ii) with the substitution of a lesser amount for the original amount;
- (b) shall be suspended for such further period not exceeding 12 months as the determination notice specifies; or
- (c) shall not be activated on this occasion and shall continue unaltered.

### **Post-hearing suspension.**

**53.** Where the Commissioners decide to suspend an eGambling licence, the determination notice shall specify —

- (a) the date from which the suspension takes effect; and
- (b) the period of time during which the suspension shall be effective.

### **Revocation of eGambling licence.**

**54.** (1) The Commissioners may revoke an eGambling licence if they are satisfied that any of the grounds specified in section 12(1) of the Ordinance apply, and —

- (a) the integrity of the conduct of eGambling by the eGambling licensee may be jeopardised in a material way; or
- (b) the public interest or the integrity and reputation of eGambling in Alderney may be affected in an adverse way.

(2) Revocation of an eGambling licence takes effect when the determination notice is given or, if the determination notice specifies a later day, on the later day.

(3) A person whose eGambling licence has been revoked shall return the licence to the Commission within seven days of the revocation taking effect.