

## **Alderney eGambling Regulations, 2009**

### **PART IV - KEY INDIVIDUAL CERTIFICATES**

#### **CHAPTER I - KEY INDIVIDUALS**

##### **Application of Part.**

**135.** This Part applies to any person who —

- (a) has been jointly identified by the Commission and an applicant for an eGambling licence or a foreign gambling associate certificate as inevitably requiring a key individual certificate;
- (b) has been identified by an eGambling licensee or a foreign gambling associate certificate holder in its approved internal control system as occupying a key position performing the functions of a key individual; or
- (c) has been designated as a key individual in accordance with regulation 136.

##### **Designation as key individual.**

**136.** (1) A person who is or, as the case may be, will become —

- (a) an associate;
- (b) someone who occupies or acts in a managerial position;
- (c) someone who carries out managerial functions; or
- (d) someone in a position to control or exercise significant influence over the operations,

of an eGambling licensee or a foreign gambling associate certificate holder, may be designated as a key individual for the purposes of regulation 135(c).

(2) Where the Commission considers that a person satisfies paragraph (1) and —

- (a) an applicant for an eGambling licence or a foreign gambling associate certificate has not agreed that the person be identified as a key individual in accordance with regulation 135(a); or
- (b) the person has not been identified as occupying a key position in an eGambling licensee's or a foreign gambling associate certificate holder's internal control system,

it shall give notice to the person concerned (a “**designation notice**”) that he is henceforth designated as a key individual.

(3) The Commission shall, at the same time as it gives a designation notice in accordance with paragraph (2), give a copy of the notice to the applicant, the eGambling licensee or the foreign gambling associate certificate holder with which the person designated as a key individual is believed to have an existing or prospective relationship.

##### **Challenge to designation notice.**

**137.** (1) If the recipient of a designation notice wishes to make representations to the Commission about anything in the notice, he may do so in writing within seven days of receipt of the designation notice.

(2) If an applicant for an eGambling licence or foreign gambling associate certificate, an eGambling licensee or foreign gambling associate certificate holder wishes to make representations on behalf of the recipient of a designation notice to the Commission about anything in the notice, it

may do so in writing within seven days of receipt of the copy of the designation notice given in accordance with regulation 136(2).

(3) Representations under paragraph (1) or (2) may include a request that the date from which the designation as a key individual takes effect be postponed until the Commission has considered the representations.

(4) After consideration of any representations under this regulation, the Commission may confirm or withdraw the designation notice.

(5) The Commission shall give the recipient of the designation notice and, where applicable, the applicant, eGambling licensee or foreign gambling associate certificate holder given a copy of the designation notice in accordance with regulation 136(3) written notice of its decision under this regulation and of the reasons for it.

## CHAPTER II - INITIAL CERTIFICATE APPLICATION

### **Submission of application.**

**138.** (1) An application for a key individual certificate by a person to whom this Part applies shall be made in writing by completing an application form as set out in Schedule 9, signed by 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 a key individual certificate may submit to the Commission, in electronic or paper format, all or part of an application form as set out in Schedule 9 for the purposes specified in regulation 141(2).

### **Items to accompany application.**

**139.** An application under regulation 138(1) shall be accompanied by —

- (a) a letter from an eGambling licensee or foreign gambling associate certificate holder or an applicant for an eGambling licence or foreign gambling associate certificate confirming the basis on which the applicant for the key individual certificate is, or will be, a key individual performing functions for, or on behalf of, the eGambling licensee or foreign gambling associate certificate holder; and
- (b) two copies of a recent photograph of the face of the applicant.

### **Initial deposit of investigation monies.**

**140.** Before, or at the time of, the submission of an application for a key individual certificate, the relevant sum specified under Schedule 21 shall be deposited with the Commission by or on behalf of the applicant, from which the Commission is permitted to draw the costs associated with processing, investigating and determining that application.

### **Commencement of investigations.**

**141.** (1) When an applicant has complied with regulations 138(1), 139 and 140, the Commission shall make arrangements to investigate the applicant in order to assess whether the applicant appears to be a fit and proper person to hold a key individual certificate.

(2) If a person submits all or part of an application form in accordance with regulation 138(2) and complies with regulation 140, 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 regulations 138(1) and 139.

### **Criteria against which applicant assessed.**

**142.** (1) In deciding whether an applicant for a key individual certificate is a fit and proper person to hold that certificate, the Commissioners shall have regard to the following matters —

- (a) the applicant's character;
- (b) the applicant's current financial position and financial background; and
- (c) the applicant's general suitability to perform functions for, or on behalf of, an eGambling licensee or a foreign gambling associate certificate holder.

(2) In deciding whether an applicant for a key individual certificate is a fit and proper person to hold that certificate, the Commissioners may have regard to the fact that the applicant holds, or has held, a licence or permission however described in respect of any form of gambling anywhere in the world.

#### **Request for further information.**

**143.** At any time before an application for a key individual certificate 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.**

**144.** (1) Whether or not a request in accordance with regulation 143 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 147(1).

#### **External consultations.**

**145.** As part of the investigation of an application for a key individual certificate, 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.**

**146.** (1) If, prior to the determination of an application for a key individual certificate, the monies deposited with the Commission in accordance with regulation 140 or this regulation have been exhausted, the Commission may by notice in writing to the applicant require that the relevant sum specified under Schedule 21 shall be deposited with the Commission by, or on behalf of, the applicant.

(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.**

**147.** (1) At any time before the Commissioners determine an application for a key individual certificate, the applicant may, by notice in writing given to the Commission, withdraw his 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 a relevant 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 his application or it 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 140 or, where applicable, regulation 146.

### **Report to Commissioners.**

**148.** On completion of an investigation of an applicant for a key individual certificate, 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.**

**149.** (1) Before deciding whether to grant or refuse an application for a key individual certificate, the Commissioners shall consider —

- (a) the report submitted to them in accordance with regulation 148; and
- (b) 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 144 to be made; and
- (b) may invite the applicant to attend before them for interview.

### **Notification of refusal.**

**150.** (1) If the Commissioners refuse to grant an application for a key individual certificate, the Commission shall give the applicant written notice of the decision and of the reasons for the refusal.

(2) Where the Commission believes that the key individual has an existing relationship with an eGambling licensee or foreign gambling associate certificate holder, the Commission —

- (a) shall give a copy of the notice of its decision under paragraph (1) to that eGambling licensee or foreign gambling associate certificate holder at the same time as it gives its decision to the key individual; and
- (b) may give written notice to the applicant and that eGambling licensee or foreign gambling associate certificate holder requiring them to terminate their relationship within the period specified in the notice.

### **Form of key individual certificate.**

**151.** If the Commissioners grant an application for a key individual certificate, the certificate issued under section 7 of the Ordinance shall be in the form set out in Schedule 10.

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

**152.** 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 140 and, where applicable, regulation 146 —

- (a) the key individual certificate shall not be regarded as valid until payment of the amount by which the costs incurred exceeded the amount deposited, as notified to the

certificate holder in writing by the Commission, has been received by the Commission; and

- (b) for the purposes of section 19(2) of the Ordinance, the application for a key individual certificate shall be treated as having been determined 14 days after the date on which notification in writing is given by the Commission in accordance with paragraph (a).

**Repayment of surplus investigation monies deposited.**

**153.** After determining an application for a key individual certificate, 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 140 or, where applicable, regulation 146.

**Accounting for investigation monies deposited.**

**154.** 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.

CHAPTER III - CERTIFICATE CONDITIONS

**General conditions attaching to key individual certificate.**

**155.** A key individual certificate issued by the Commission under section 7 of the Ordinance is subject to the following conditions —

- (a) the certificate holder must give notification in writing to the Commission containing full details within seven days when a material change occurs in the information previously supplied by, or on behalf of, him to the Commission, whether prior to being granted the certificate or subsequently, to which the Commission would be able to have regard in considering whether or not the certificate holder is a fit and proper person to hold a key individual certificate; and
- (b) upon being given reasonable notice, which shall wherever possible be not less than seven days, the certificate holder shall attend at a meeting of the Commissioners for the purpose set out in the notice.

**Imposition or change of licence conditions.**

**156.** (1) Where the Commission considers it necessary, expedient or desirable to —

- (a) attach a condition to a key individual certificate;
- (b) modify an existing condition attached to a key individual certificate; or
- (c) rescind an existing condition attached to a key individual certificate,

it shall issue to the certificate holder 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) Where the Commission believes that the key individual certificate holder has an existing relationship with an eGambling licensee or a foreign gambling associate certificate holder, the Commission shall give a copy of the condition notice to that eGambling licensee or foreign gambling associate certificate holder at the same time as it gives the condition notice to the key individual certificate holder.

(3) Subject to regulation 157, a change of conditions takes effect on —

- (a) the day on which the condition notice is given to the key individual; or
- (b) such later day as is specified in the condition notice.

### **Challenge to condition notice.**

**157.** (1) If a key individual certificate holder wishes to make representations to the Commission about anything in the condition notice, he may do so in writing within seven days of receipt of the condition notice.

(2) If an eGambling licensee or foreign gambling associate certificate holder wishes to make representations on behalf of the key individual certificate holder to the Commission about anything in the condition notice, it may do so in writing within seven days of receipt of the copy of the condition notice given in accordance with regulation 156(2).

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

(4) After consideration of any representations under this regulation, the Commission may confirm, modify or withdraw the condition notice.

(5) The Commission shall give the key individual and, where applicable, the eGambling licensee or foreign gambling associate certificate holder given a copy of the condition notice in accordance with regulation 156(2) written notice of its decision under this regulation and of the reasons for it.

### **Return of key individual certificate for endorsement of changed conditions.**

**158.** (1) A key individual certificate holder shall return his key individual certificate to the Commission within seven days of —

- (a) receiving a condition notice; or,
- (b) where the right to make representations in accordance with regulation 157 has been exercised, receipt of a notice from the Commission in accordance with regulation 157(5) confirming or modifying the condition notice.

(2) On receiving the key individual certificate, the Commission shall —

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

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

## **CHAPTER IV - CERTIFICATE MODIFICATIONS, LAPSE AND SURRENDER**

### **Modification to key individual certificate.**

**159.** (1) A key individual certificate holder who wishes to obtain the Commission's approval for a proposed modification to the details contained on his key individual certificate shall make application by letter to the Commission setting out the modification for which he seeks approval.

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

- (a) a certificate holder's name changing; or
- (b) a certificate holder's address changing.

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

- (a) the certificate holder's key individual certificate;
- (b) where applicable, a certified copy of document recording the change in question; and

- (c) payment in respect of an administration charge of the relevant sum specified in Schedule 21.

(4) If the Commission refuses to grant an application under this regulation, it shall return the certificate holder's key individual certificate and give to him written notice of its decision and of the reasons for the refusal.

(5) Where the Commission believes that the key individual certificate holder has an existing relationship with an eGambling licensee or a foreign gambling associate certificate holder, the Commission shall give a copy of the notice of its decision under paragraph (4) to that eGambling licensee or foreign gambling associate certificate holder at the same time as it gives its decision to the certificate holder.

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

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

#### **Lapsing of key individual certificate.**

**160.** (1) A key individual certificate shall cease to have effect if there has been no relationship between the certificate holder and an eGambling licensee or foreign gambling associate certificate holder for a continuous period of two months.

(2) A person whose key individual certificate has lapsed as a result of paragraph (1) must, unless he provides an explanation which is acceptable to the Commission, return the certificate to the Commission within 14 days after the day on which the certificate ceases to have effect.

#### **Surrender of key individual certificate.**

**161.** (1) A key individual certificate holder may surrender his key individual certificate 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 a key individual certificate must, unless it provides an explanation which is acceptable to the Commission, return the certificate to the Commission within seven days after the day on which the surrender takes effect.

### CHAPTER V - SUSPENSION, REVOCATION AND OTHER SANCTIONS

#### **Fit and proper test: key individual.**

**162.** (1) For the purposes of section 12(1)(a) of the Ordinance, in deciding whether a key individual certificate holder continues to be a fit and proper person to hold that certificate, the Commission shall have regard to the following matters —

- (a) the certificate holder's character;
- (b) the certificate holder's current financial position and financial background; and
- (c) the certificate holder's general suitability to perform functions for, or on behalf of, an eGambling licensee or foreign gambling associate certificate holder.

(2) For the purposes of section 12(1)(a) of the Ordinance, in deciding whether a key individual certificate holder is a fit and proper person to hold that certificate, 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 key individual certificate was issued or obtained since then in respect of any form of gambling anywhere in the world;
- (b) any penalties or sanctions however described imposed on the certificate holder by gambling regulators outside Alderney.

**Rectification: Commission proposal.**

**163.** (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 key individual certificate holder 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 key individual certificate holder a notice in writing (a “**rectification proposal**”) which shall explain the proposed direction under regulation 164 and set out the Commission’s reasons for proposing to give the direction.

(2) If a key individual certificate holder wishes to make representations to the Commission about anything in the rectification proposal, he may do so in writing within seven days of receipt of the rectification proposal.

(3) After consideration of a key individual certificate holder’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 key individual certificate holder written notice of its decision under paragraph (3) and of the reasons for it.

**Direction to rectify.**

**164.** (1) Where —

- (a) a key individual certificate holder elects not to make any representations in accordance with regulation 163(2); or
- (b) after considering a key individual certificate holder’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 certificate holder (a “**rectification notice**”), direct him 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 key individual certificate holder of the consequences of failing to comply with the notice as specified in regulation 166(2).

(3) Where the Commission believes that the key individual certificate holder has an existing relationship with an eGambling licensee or a foreign gambling associate certificate holder, the Commission shall give a copy of the rectification notice to that eGambling licensee or that foreign gambling associate certificate holder.

(4) During the period of time specified in a rectification notice, its terms may be modified in any way the Commission sees fit, whether as a result of written representations from the certificate holder or from an eGambling licensee or foreign gambling associate certificate holder with which the certificate holder has an existing relationship, or of the Commission’s own motion.

**Written caution.**

**165.** 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 key individual certificate holder formal notice warning him 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 certificate holder a notice in writing which shall set out the basis for its finding that a ground in section 12(1) of the Ordinance has arisen and warn the certificate holder of the consequences of any repetition of the same or a similar nature.

**Regulatory hearing: notice.**

**166.** (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 key individual certificate holder shall be given the opportunity of making representations in response,

the Chief Executive Officer shall give to the certificate holder 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 key individual certificate and set out his 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 key individual certificate holder 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 key individual certificate 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 key individual certificate holder and appoint a date, time and place for the hearing.

(4) A key individual certificate holder may elect not to attend the hearing convened by the hearing notice and confine his representations to any he wishes to make in writing to the Commission prior to the date of the hearing.

**Immediate suspension.**

**167.** (1) At the same time as giving a hearing notice, the Chief Executive Officer may, with the approval of at least one Commissioner, suspend a key individual certificate 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 key individual certificate be suspended to ensure that the certificate holder is unable to jeopardise the integrity of an eGambling licensee’s or a foreign gambling associate certificate holder’s operation.

(2) A suspension under this regulation —

- (a) shall be effected by written notice given by the Chief Executive Officer to the key individual certificate holder (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 166; or
  - (ii) it is cancelled by further notice in writing of the Chief Executive Officer in accordance with regulation 168.

(3) Where the Chief Executive Officer believes that the key individual certificate holder has an existing relationship with an eGambling licensee or foreign gambling associate certificate holder, the Chief Executive Officer shall give a copy of the suspension notice to that eGambling licensee or that foreign gambling associate certificate holder.

**Cancellation of suspension notice.**

**168.** (1) If a key individual certificate holder wishes to request that the immediate suspension imposed by the suspension notice be cancelled, he may make representations in writing to the Chief Executive Officer at any time whilst the suspension is effective.

(2) If an eGambling licensee, or foreign gambling associate certificate holder receiving a copy of the suspension notice in accordance with regulation 167(3), wishes to request on behalf of the key individual certificate holder that the immediate suspension imposed by the suspension notice be cancelled, it may make representations in writing at any time whilst the suspension is effective.

(3) After consideration of any representations made under paragraph (1) or (2), the Chief Executive Officer, with the approval of at least one Commissioner, may confirm or cancel the suspension notice.

(4) The Chief Executive Officer shall give the key individual certificate holder and, where applicable, the eGambling licensee or foreign gambling associate certificate holder written notice of the decision under paragraph (3) and of the reasons for it.

(5) Where, prior to the Commission reaching a determination at the conclusion of the hearing convened in accordance with regulation 166, the Chief Executive Officer considers that it is no longer necessary to continue the suspension of a key individual certificate, he shall, with the approval of at least one Commissioner, cancel the suspension notice and give written notice to that effect to the certificate holder and, where applicable, an eGambling licensee or foreign gambling associate certificate holder which has received a copy of the suspension notice in accordance with regulation 167(3).

**Conduct of regulatory hearing.**

**169.** (1) At a hearing convened in accordance with regulation 166 —

- (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 key individual certificate holder may appear before the Commissioners in person or through any representative.

(2) Without prejudice to the generality of paragraph (1)(b), where the key individual certificate holder indicates that he wishes to challenge the allegation set out in the hearing notice given to him, 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 certificate holder 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, or on behalf of, the certificate holder and re-examination by the duly authorised officer or his representative shall be permitted;
- (c) the certificate holder or, as the case may be, his representative shall next present his 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 certificate holder's presentation, cross-examination by the duly authorised officer or his representative and re-examination by, or on behalf of, the certificate holder shall be permitted;
- (e) written representations may be lodged with the Commissioners by, or on behalf of, the duly authorised officer or certificate holder 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 certificate holder or his representative 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 certificate holder or his representative to offer any explanation and make such other comment as he wishes.

(4) Without prejudice to the generality of paragraph (1)(b), where the key individual certificate holder indicates that he accepts the allegation set out in the hearing notice given to him, 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 certificate holder;
- (b) the certificate holder or his representative 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.**

**170.** (1) During or at the conclusion of a hearing convened in accordance with regulation 166, 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 key individual certificate holder 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 certificate holder or, as the case may be, his certificate; or
- (b) if not, shall direct that the allegation against him be recorded as not having been established.

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

(3) Where the Commission believes that the key individual certificate holder has an existing relationship with an eGambling licensee or a foreign gambling associate certificate holder, the Commission shall give a copy of the determination notice to that eGambling licensee or that certificate holder.

### **Financial penalties.**

**171.** (1) Where the Commissioners decide to impose a financial penalty on a key individual certificate holder —

- (a) subject to paragraph (2), 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 the Commissioners decide to impose a financial penalty on a key individual certificate holder for his complicity in a matter also resulting in a ground referred to in section 12(1) being established against an eGambling licensee, a foreign gambling associate certificate holder or, as the case may be, a hosting certificate holder, the financial penalty specified in the determination notice given in accordance with regulation 170(2) shall not be greater than any financial penalty imposed in accordance with regulation 51 or 131.

(3) 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.

(4) 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 172 and, at the end of the period so specified, the penalty shall no longer be capable of taking effect.

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

**172.** (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 given to the key individual certificate holder in accordance with regulation 166 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 key individual certificate holder, 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.**

**173.** Where the Commissioners decide to suspend a key individual certificate, 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.

**Withdrawal of key individual certificate.**

**174.** (1) The Commissioners may withdraw a key individual certificate if they are satisfied that any of the grounds specified in section 12(1) of the Ordinance apply, and that unless the certificate is withdrawn –

- (a) the integrity of the conduct of eGambling by an eGambling licensee or a foreign gambling associate certificate holder 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) Withdrawal of a key individual certificate 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 key individual certificate has been withdrawn shall return the certificate to the Commission within seven days of the withdrawal taking effect.