

PROJET DE LOI

ENTITLED

The Hotel Casino Concession (Guernsey) Law, 2001 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* No. XI of 2002 (Ordres en Conseil Vol. XLII, p. 277); as amended by the Hotel Casino Concession (Guernsey) Law, 2001 (Commencement and Consequential Amendment) Ordinance, 2002 (No. XIII of 2002, Recueil d'Ordonnances Tome XXIX, p. 113); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Hotel Casino Concession (Application Fee) Regulations, 2002 (G.S.I. No. 26 of 2002).

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ARRANGEMENT OF SECTIONS

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3. Conditions of a concession.
4. Duration of concession.
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The Hotel Casino Concession (Guernsey) Law, 2001

THE STATES, in pursuance of their Resolution of the 15th day of October, 1998^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Grant of concession.

1. (1) Without prejudice to the provisions of any other enactment, no person shall establish or operate a casino except in accordance with the terms of a concession granted under subsection (2).

(2) Subject to this Law, the States may by Resolution grant a concession to a concessionaire who intends to provide the premises (which shall include a hotel and a casino) specified in the concession ("**concession premises**").

(3) The States shall not grant a concession to any person unless he appears to the States to be a person to whom a casino operator's licence is likely to be granted.

(4) The States may not grant more than one concession pursuant to subsection (2), provided that they may grant successive concessions.

Application for a concession.

2. (1) An application for a concession shall be made in writing to the [Committee] and shall contain the particulars set out in Part I of the Schedule and such other particulars (if any) as the [Committee] may require.

[(2) There shall be submitted with an application made under

^a Billet d'État No. XX of 1998.

subsection (1) –

- (a) a written statement made by the applicant or, where the applicant is a company, made by a director of that company, in the form set out in Part II of the Schedule, and
- (b) such fee, payable to the States in such manner and subject to such conditions (including, for the avoidance of any doubt and not by way of limitation, a condition that any such fee shall not, in any circumstances, be refunded to the applicant) as the [Committee] may by regulations determine.]

NOTES

In section 2,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016;

subsection (2) was substituted by the Hotel Casino Concession (Guernsey) Law, 2001 (Commencement and Consequential Amendment) Ordinance, 2002, section 2, with effect from 31st July, 2002.

The following Regulations have been made under section 2:

Hotel Casino Concession (Application Fee) Regulations, 2002.

In accordance with the provisions of the Hotel Casino Concession (Application Fee) Regulations, 2002, regulation 1, with effect from 1st August, 2002, the fee payable upon submission of an application made under subsection (1) of this section is £750 and shall not, in any circumstances, be refunded to the applicant.

Conditions of a concession.

3. The States may grant a concession subject to –

- (a) the imposition of such conditions as the States may consider necessary or expedient, including (without limiting the generality of the foregoing) conditions –

- (i) that the concessionaire shall obtain a casino operator's licence within a specified period of time,
- (ii) that the concessionaire shall obtain a hotel boarding permit within a specified period of time,
- (iii) that the concessionaire shall provide the concession premises –
 - (aa) within a specified period of time or in accordance with a specified time-table,
 - (bb) in accordance with plans and specifications approved by the [Committee], and
 - (cc) to the satisfaction of the [Committee],
- (iv) that the concessionaire shall operate the concession premises in accordance with an operations policy approved by the [Committee],
- (v) that the concessionaire shall, for the duration of the term of the concession, remain the holder of a casino operator's licence,
- (vi) that the concessionaire shall, for the duration of the term of the concession, remain the holder of a hotel boarding permit, and
- (vii) that neither the benefit nor the burden of the concession shall be assigned to a third party

without the consent of the States,

- (b) the payment of such annual fee as may be resolved by the States.

NOTE

In section 3, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

Duration of concession.

4. Unless the States otherwise resolve and subject to this Law, a concession shall remain in force for a period of 10 years.

Variation of casino concession.

5. The States may, with the consent of a concessionaire, vary a concession and any condition of a concession –

- (a) by the substitution of another person for the concessionaire,
- (b) by varying the description of the concession premises or the specified period of time within which or the timetable in accordance with which they are to be provided, and
- (c) by varying the specified period of time within which a concessionaire may be obliged to obtain a casino operator's licence.

Revocation or suspension of concession.

6. The [Committee] may suspend or revoke a concession –

- (a) upon the breach by a concessionaire of any –

- (i) provision of this Law or any other enactment or any rule of law having effect in Guernsey, or
 - (ii) term or condition upon or subject to which the concession is granted, or
- (b) if it is satisfied that any information given to the States or any States Committee by or in relation to a concessionaire in connection with the grant of the concession or any other matter relating thereto was to the knowledge of the concessionaire or any agent of the concessionaire false or misleading in any material respect.

NOTE

In section 6, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

Rights of appeal.

7. (1) A concessionaire aggrieved by a decision of the [Committee] to suspend or revoke a concession may appeal to the Court against the decision.

(2) The grounds of an appeal under this section shall be that the decision was *ultra vires* or was an unreasonable exercise of the [Committee]'s powers.

(3) An appeal under this section shall be instituted –

- (a) within a period of 28 days immediately following the date of the notice of the [Committee]'s decision,
- (b) by summons served on [the President] of the [Committee] stating the grounds and material facts on

which the appellant relies.

(4) The [Committee] may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and upon hearing the application the Court may –

- (a) dismiss the appeal or dismiss the application (in either case upon such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just,

and the provisions of this subsection are without prejudice to the inherent powers of the Court or to the provisions of rule 36(2) of the Royal Court Civil Rules, 1989^b.

(5) On an appeal under this section the Court may –

- (a) set the decision of the [Committee] aside and, if the Court considers it appropriate to do so, remit the matter to the [Committee] with such directions as the Court thinks fit, or
- (b) confirm the decision.

NOTES

In section 7, the words, first, "Committee" and, second, "the President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 2 and section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016.¹

The Royal Court Civil Rules, 1989 have since been revoked by the Royal Court Civil Rules, 2007, rule 91, with effect from 4th February, 2008, subject to the transitional provisions in rule 94 of the 2007 Rules.

^b O.R.C. No. VII of 1989.

Offence relating to establishment or operation of a casino without a concession.

8. (1) A person who establishes or operates a casino –
- (a) in respect of which no concession granted under section 1(2) is in force, or
 - (b) otherwise than in accordance with the terms and conditions of a concession granted under section 1(2),

is guilty of an offence.

- (2) A person who is guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 3 months, to a fine not exceeding level 5 on the uniform scale, or to both,
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, to a fine, or to both.

False statements.

9. (1) A person who in or in connection with an application for a concession under this Law makes a statement or records or furnishes information which to his knowledge is false or misleading in a material respect, or recklessly makes a statement or records or furnishes information which is false or misleading in a material respect is guilty of an offence.

- (2) A person who is guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 3 months, to a fine not exceeding level 5 on the uniform scale, or to both,
 - (b) on conviction on indictment, to imprisonment for a

term not exceeding 2 years, to a fine, or to both.

Offences by bodies corporate.

10. (1) Where an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to or to have been facilitated by any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Interpretation.

11. (1) In this Law, unless the context otherwise requires –

"[**Committee**]" means the States of Guernsey [Committee for Economic Development],

"**casino**" means premises specified or to be specified in a casino operator's licence,

"**casino operator's licence**" means a licence granted under section 2 of the Gambling (Casino Gaming) Ordinance, 2001^c in respect of a casino forming part of the concession premises,

"**company**" means a body corporate the memorandum and articles of which are registered in the Register of Companies,

"**concession**" means a Resolution of the States made under section 1(2),

"**concession premises**" has the meaning given by section 1(2),

^c Ordinance No. XXXVIII of 2001.

"concessionaire" means a person named as such in a Resolution of the States made under section 1(2),

"concession company" has the meaning given by paragraph 4 of the Schedule,

"Court" means the Royal Court sitting as an Ordinary Court,

"hotel boarding permit" means a boarding permit granted under the Tourist Law, 1948^d in respect of a hotel forming part of the concession premises,

"operations policy" means a written statement made by a concessionaire setting out those details prescribed in paragraph 7 of Part I of the Schedule, which is approved by the [Committee] and as the same may from time to time be varied by agreement with the [Committee],

"Register of Companies" has the same meaning as in the Companies (Guernsey) Law, 1994^e,

"Royal Court" means the Royal Court of Guernsey, and

"Schedule" means the schedule to this Law.

(2) In this Law references to the provision of premises include the erection of new premises and the conversion, extension, alteration or refurbishment of existing premises, and **"provide"** and **"provided"** shall be construed accordingly.

(3) In this Law, except where the context otherwise requires –

^d Ordres en Conseil Vol. XIII, p.329; Vol. XXI, p.104; Recueil d'Ordonnances Tome XVII, p.20; Ordres en Conseil Vol. XXVIII, p.275; Vol. XXXI, p.278; Order in Council No. XI of 1998.

^e Order in Council No. XXXIII of 1994; No. XIV of 1996.

- (a) a reference to a numbered section, or to a numbered or lettered subdivision thereof, is to the section or subdivision thereof so identified in this Law,
- (b) a reference in a section to a numbered or lettered subdivision is to the subdivision so identified in that section, and
- (c) a reference to any enactment is to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment.

NOTES

In section 11, the words in, first, the first and, second, the second pairs of square brackets in the definition of the expression "Committee" in subsection (1) and, third, the word "Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 2, section 2, Schedule 1, paragraph 1(a) and section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.²

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.³

The Companies (Guernsey) Law, 1994 has since been repealed by the Companies (Guernsey) Law, 2008, section 543, Schedule 5, paragraph 4(1)(a), with effect from 1st July, 2008, subject to the savings and transitional provisions in, first, section 541 of and Schedule 4 (paragraphs 2 and 4 of which entered into force on 12th June, 2008) to the 2008 Law, second, the Companies (Transitional Provisions) Regulations, 2008, third, the Companies (Transitional Provisions) (No. 2) Regulations, 2008 and, fourth, the Companies (Transitional Provisions) (No. 3) Regulations, 2008.

Power to amend by Ordinance.

12. The States may by Ordinance amend any of the provisions of this Law.

NOTE

The following Ordinance has been made under section 12:

Hotel Casino Concession (Guernsey) Law, 2001 (Commencement and Consequential Amendment) Ordinance, 2002.

Citation.

13. This Law may be cited as the Hotel Casino Concession (Guernsey) Law, 2001.

Commencement.

14. This Law shall come into force on the day appointed by Ordinance of the States.

NOTE

The Law was brought into force on 31st July, 2002 by the Hotel Casino Concession (Guernsey) Law, 2001 (Commencement and Consequential Amendment) Ordinance, 2002, section 1.

SCHEDULE
PART I

Section 2

PARTICULARS REQUIRED IN CONNECTION WITH
APPLICATION FOR CASINO CONCESSION

1. Full name and address of applicant.
2. Where the applicant is a company, a statement of the names and addresses of, and the numbers and types of shares held in the company by, its shareholders.
3. A statement of the main business of the applicant.
4. A full set of the applicant's most recently audited accounts and, where the applicant is a company established for the sole or main purpose of making application for a concession (a "**concession company**"), a full set (where available) of the most recently audited accounts of the holders of any shares in that concession company.
5. A statement of the applicant's and, where the applicant is a concession company, the applicant's shareholders' experience of establishing and managing gaming operations, including casinos and hotel or other commercial residential establishments.
6. Details of any outline development proposals (including plans and specifications if available) for the concession premises.
7. Details of the applicant's proposed operations policy for the concession premises. The operations policy should deal with all aspects of the manner in which it is intended that concession premises will be operated. In particular, the following issues should be addressed –
 - (a) proposed number of rooms and bed spaces in any hotel premises to be operated in conjunction with the casino,

- (b) proposed grading and quality standard to which it is intended that any hotel premises are to be operated,
- (c) numbers of restaurants and bars to be included as part of any concession premises, including standard of quality, size and seating capacity,
- (d) other facilities it is proposed to include (e.g. swimming pool, health/fitness, discotheque/nightclub, etc),
- (e) maintenance policies for the concession premises, with proposed work schedules,
- (f) types and numbers of visitors which it is intended to attract to the concession premises,
- (g) marketing policies which it is intended to implement in order to attract visitors to the concession premises,
- (h) numbers and categories (by job-type) of staff that it is anticipated will be required for operating the concession premises, including details as to –
 - (i) place of recruitment,
 - (ii) means of accommodation, where use of staff recruited from outside the Bailiwick is anticipated, and
 - (iii) staff training policy.

8. A statement in the form set out in Part II of this Schedule.

PART II
WRITTEN STATEMENT TO BE SUBMITTED WITH APPLICATION

A. In circumstances where the applicant is an individual –

To the States of Deliberation –

I [*name of applicant*] of [*address of applicant*] confirm that the contents of an application dated [*date of application*] made by me under the Hotel Casino Concession Law, 2001 and all documents attached or referred to therein (hereinafter referred to as "**the documentation**") are to my knowledge accurate and correct in each and every material particular, I having examined and read through the application and the documentation.

Signed [*maker of statement to sign here*]

Name of signatory [*full name of maker of statement to be written here*]

Address of signatory [*address to be written here if different from above*]

Date [*date upon which statement made to be written here*]

B. In circumstances where the applicant is a body corporate –

To the States of Deliberation –

I [*name and address of director*] being a director of the company known as [*name of company*] of [*registered office address of company*] (hereinafter referred to as "**the company**") confirm that the contents of an application dated [*date of application*] made by the company under the Hotel Casino Concession Law, 2001 and all documents attached or referred to therein (hereinafter referred to as "**the documentation**") are to my knowledge accurate and correct in each and every material particular, I having examined and read through the application and the documentation.

I further confirm that I am authorised to make this declaration for and on behalf of the company pursuant to and in accordance with a resolution of the directors of the company so authorising me, made on [*date of making of*

resolution]

Signed [*maker of statement to sign here*]

Name of signatory [*full name of maker of statement to be written here*]

Address of signatory [*address to be written here if different from above*]

Date [*date upon which statement made to be written here*].

¹ The words "the President" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 28, with effect from 6th May, 2004.

² These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 28, with effect from 6th May, 2004.

³ The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Tourist Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 28, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.