

ORDER IN COUNCIL

**XXIII
2001**

ratifying a Projet de Loi

ENTITLED

The Guernsey Gambling Control Commission, Law, 2001

(Registered on the Records of the Island of Guernsey
on the 20th November, 2001.)



2001

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 20th day of November, 2001 before de Vic Graham Carey, Esquire, Bailiff; present:— David Charles Lowe, Esquire, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Gerald Peter Lane, Michael Henry De La Mare and Michael John Tanguy, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 31st day of October, 2001, approving and ratifying the Projet de Loi of the States entitled “The Guernsey Gambling Control Commission, Law, 2001”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 31st day of October, 2001

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS, there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 24th day of September 2001 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

“1. That, in pursuance of their Resolution of the 28th day of September 2000, the States of Deliberation at a meeting held on the 25th day of July 2001 approved a Bill or “Projet de Loi” entitled “The Guernsey Gambling Control Commission Law, 2001”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Guernsey Gambling Control Commission Law, 2001”, and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou.”

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of law within the Islands of Guernsey, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

A. K. Galloway

PROJET DE LOI

ENTITLED

The Guernsey Gambling Control Commission Law, 2001

THE STATES, in pursuance of their Resolution of the 28th September 2000^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.

Guernsey Gambling Control Commission.

1. (1) There is established by, and in accordance with this Law, a body known as the Guernsey Gambling Control Commission ("**the Commission**").

(2) The Commission is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name.

(3) The provisions of the Schedule shall have effect with respect to the Commission.

(4) The States may from time to time by Ordinance vary the Schedule and make any necessary consequential or transitional provision.

Functions of the Commission.

2. (1) The Commission shall carry out such functions relating to the

^a Article XV of Billet d'État No. XX of 2000.

supervision, control and regulation of gambling and any form of gambling, as the States may from time to time assign to the Commission by Ordinance.

(2) In the carrying out of any functions assigned to it pursuant to subsection (1), the Commission may take into account any matter which it considers appropriate, but shall have particular regard to ensure that any form of lawful gambling is conducted honestly and fairly in accordance with, where reasonably possible and relevant, standards that are applied to similar forms of lawful gambling in the United Kingdom.

(3) Any Ordinance made under subsection (1) shall, unless the contrary intention appears, be deemed to have been made under powers contained both in this Law and the Gambling (Guernsey) Law, 1971^b.

Status of the Commission.

3. (1) The Commission is not a committee of the States, or a servant or agent of the States, and, except to the extent that this Law or any other enactment otherwise provides-

- (a) is not subject to any rule of law relating to committees of the States;
- (b) does not have any right or privilege vested in committees of the States.

(2) The Commission may consult and co-operate with any

^b Ordres en Conseil Vol. XXIII, p. 109; Vol. XXIV, p. 400; and No. XXVII of 1997.

committee of the States in relation to any matter relating to gambling within Guernsey.

Provision of information to the Gambling Control Committee.

4. Without prejudice to the generality of section 3(2), but subject to section 21, the Commission shall, when requested in writing by the Committee, furnish the Committee, to the best of the Commission's ability, with such information as the Committee may require in relation to gambling within Guernsey or elsewhere.

Annual reports.

5. (1) The Commission shall, as soon as practicable in each year, make a report to the Committee on its activities during the preceding year; and the President of the Committee shall, as soon as practicable, submit that report for consideration by the States.

(2) The annual report made pursuant to subsection (1) may refer to any aspect of the Commission's functions and in particular-

- (a) may set out or refer to any guidance given to the Commission under section 6(1)(a) during the preceding year; and
- (b) shall set out any directions given to the Commission under section 6(1)(b) during the preceding year.

Guidance and directions.

6. (1) The Committee may, after consulting the Commission, give to the Commission -

(a) written guidance of a general character; and

(b) written directions of a general character,

concerning the policies to be followed by the Commission in relation to the supervision, control and regulation of gambling in Guernsey and the manner in which any function of the Commission is to be carried out.

(2) It is the duty of the Commission, in carrying out any of its functions -

(a) to take into account any guidance given under paragraph (a) of subsection (1); and

(b) to act in accordance with any directions given under paragraph (b) of subsection (1).

(3) The Commission shall not be deemed to have acted unreasonably or beyond its powers in the carrying out of any of its functions by reason only that it has complied with its duty under subsection (2).

General powers of the Commission.

7. (1) The Commission may do anything which appears to it to be conducive to the carrying out of its functions or to be incidental to their proper discharge.

(2) Without prejudice to the generality of subsection (1) the Commission may, in connection with the carrying out of its functions -

(a) obtain information relating to gambling in Guernsey

and the supervision, control and regulation of similar forms of gambling carried on outside Guernsey;

- (b) consult or seek the advice of such persons or bodies as it considers appropriate; and
- (c) publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit.

(3) This section relates only to the capacity of the Commission as a body corporate and does not authorise the disregard by the Commission of any enactment or rule of law.

Contractual powers.

8. (1) The Commission may enter into a contract, or make an arrangement with, any person for the provision of any service or any facility to facilitate the carrying out of the Commission's functions and may expend money generally for the proper purposes of the Commission.

- (2) The power conferred by subsection (1) includes the power -
 - (a) to open, operate and close banking accounts in the name of the Commission;
 - (b) to enter into, and pay any premium in respect of, contracts of insurance insuring the Commission, any member of the Commission, or any officer or servant of the Commission against -

- (i) any risk to the Commission's property; or
- (ii) any risk arising in connection with the carrying out of the Commission's functions, including, without prejudice to the generality of the foregoing, the risk of a claim against the Commission in respect of any description of civil liability.

Powers as to property.

9. (1) The Commission has all such powers in relation to the acquisition, use and disposal of property (whether realty or personalty) as are conducive to the carrying out of its functions.

(2) Without prejudice to the generality of subsection (1), the Commission may -

- (a) acquire any land or building, or an interest in any land or building, by purchase, lease, sublease, easement or otherwise;
- (b) deal generally with, and dispose of, by sale, lease, sublease, easement or otherwise, any land or building or an interest in any land or building;
- (c) acquire any furniture, equipment or other personalty, by purchase, hire, bailment or otherwise; and
- (d) deal generally with, and dispose of, by sale, hire, bailment or otherwise, any furniture, equipment or

other personalty.

Appointment, remuneration etc. of staff.

10. (1) The Commission may appoint such officers and servants as it considers necessary for carrying out its functions.

(2) An appointment under subsection (1) may be made on such terms as to remuneration, expenses, pensions and other conditions of service as the Commission thinks fit.

(3) The Commission may establish and maintain such schemes, or make such other arrangements, as it thinks fit for the payment of pensions and other benefits in respect of its officers and servants.

The Commission's funds.

11. The funds and resources of the Commission are-

- (a) the fees and charges paid to the Commission in accordance with section 12;
- (b) any grant paid to the Commission under section 13;
- (c) any money borrowed by the Commission in accordance with section 14;
- (d) any other money or property, and any income and profits derived from such money or property, as is lawfully vested in the Commission through the exercise of its powers under this Law.

Fees and charges.

12. There shall be payable to the Commission in connection with the carrying out of any function of the Commission, fees of such amounts, by such persons and in such manner, as may be specified by Ordinance.

Grants to the Commission.

13. (1) In respect of each year the Committee may make a grant to the Commission from the States General Revenue Account towards the expenses of the Commission in carrying out its functions.

(2) The amount of any grant under subsection (1) shall be determined by the Committee after consultation with the Commission; and in determining that amount the Committee shall have regard to the extent, if any, to which the Commission's estimated expenditure in any year is likely to exceed its estimated income from other sources in that year.

Borrowing by the Commission.

14. (1) For the purpose of assisting the Commission to carry out its functions, the Committee may make advances to the Commission from the States General Revenue Account.

(2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Commission under this section shall not at any time exceed such sum as the States may from time to time by Resolution determine.

(3) No advance shall be made under this section except on such terms (as to repayment, payment of interest or otherwise) as the States may from time to time by Resolution determine.

(4) The Commission shall not borrow money except in accordance with this section.

Investment of surplus funds.

15. The Commission may invest any of its funds which are not immediately required in any investment approved for the purpose by the Committee in writing.

Exemption from income tax.

16. The income of the Commission is not subject to income tax under the Income Tax (Guernsey) Law, 1975^c.

Accounts and audit.

17. (1) The Commission shall -

- (a) keep proper accounts and proper records in relation to those accounts; and
- (b) prepare in respect of each year a statement of accounts giving a true and fair view of the state of affairs of the Commission.

(2) The accounts of the Commission shall be -

^c Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; Nos. IV and VIII of 1993; No. XXV of 1994; Nos. III and VII of 1995; No. V of 1996; Nos. IV and XXII of 1997; No. II of 1999 and No. IV of 2000.

- (a) audited by auditors appointed by the States; and
- (b) laid before the States, in the same manner as the accounts of a committee of the States.

Delegation to members and officers.

18. (1) The Commission may, by an instrument in writing under its common seal, delegate to any of its members or officers named or described in that instrument, either generally or otherwise as provided by that instrument, any of its functions except -

- (a) this power of delegation;
- (b) its duty to make an annual report to the Committee; or
- (c) so much of any of its functions as require the Commission to consider representations concerning a decision which it proposes to take.

(2) A function delegated under this section may be carried out by the delegate in accordance with the instrument of delegation and, when so carried out, shall, for the purposes of this Law, be deemed to have been carried out by the Commission.

(3) A delegation under this section is revocable by the Commission at will and does not prevent the carrying out of a function by the Commission.

Execution of documents.

19. Any deed, instrument, contract or other document shall be deemed to

have been duly executed by or on behalf of the Commission, and shall be effective in law to bind the Commission, if it is -

- (a) sealed with the common seal of the Commission; and
- (b) signed by a member or officer of the Commission to whom the Commission has delegated, under section 18, authority to affix the Commission's common seal.

Presumption of authenticity of documents.

20. Any document purporting to be issued by the Commission and to be signed by a member or officer of the Commission on behalf of the Commission shall be deemed to be such a document unless the contrary is shown.

Confidentiality.

21. (1) Any information from which an individual or body can be identified which is acquired by the Commission in the course of carrying out its functions shall be regarded as confidential by the Commission and by its members, officers and servants.

(2) No such information as is referred to in sub-section (1) shall be disclosed, without the consent of every individual who, and every body which, can be identified from that information, except to the extent that its disclosure is expressly authorised or required by or under any relevant enactment or appears to the Commission to be necessary -

- (a) to enable the Commission to carry out any of its functions;
- (b) in the interests of the prevention, detection or

investigation of crime within or outside Guernsey;

- (c) in connection with the discharge of any international obligation to which Guernsey is subject;
- (d) to assist, in the interests of the public, any authority which appears to the Commission to carry out in a place outside Guernsey functions corresponding to those of the Commission;
- (e) to assist any prosecuting authority with the prosecution of criminal offences within or outside Guernsey; or
- (f) to comply with the directions of the Court.

(3) Without prejudice to subsections (1) and (2), any information communicated to the Commission by a committee of the States shall be regarded as confidential, if that committee of the States so requests, by the Commission and by its members, officers and servants; and no such information shall be disclosed except in compliance with the directions of the Court.

(4) A person who discloses information, or who causes or permits the disclosure of information, in contravention of this section is guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;
- (b) on summary conviction, to a fine not exceeding level 3 on the uniform scale.

Communications by auditors and others to Commission.

22. (1) No duty, to which an auditor, employee or agent of any person licensed to organise any form of gambling -

- (a) made lawful by any relevant enactment, and
- (b) which is supervised, controlled or regulated by the Commission pursuant to section 2,

is subject, is contravened by reason of his communication in good faith to the Commission, whether or not in response to a request by it, of any information or opinion on a matter to which this section applies and which is relevant to any function of the Commission under this Law or an Ordinance made thereunder.

(2) This section applies to any matter of which an auditor, employee or agent becomes aware in his capacity as auditor, employee or agent and which relates to the business or affairs of a person licensed to organise any form of gambling or any associated body of such person.

(3) This section applies in relation to the auditor, employee or agent of a person formerly licensed to organise any form of gambling made lawful by any relevant enactment, as it applies to a person currently so licensed.

(4) In this section "**associated body**" means a person whom the Commission reasonably believes to be associated with the operations of a person licensed to organise any form of gambling made lawful by any relevant enactment.

Liability of members, officers and servants.

23. No member, officer or servant of the Commission is personally liable

in any civil proceedings in respect of anything done or omitted to be done in the discharge or purported discharge of any function or duty of the Commission under any relevant enactment, unless the thing is done or omitted to be done in bad faith.

General provisions as to Ordinances.

24. (1) An Ordinance under this Law may -

- (a) be amended or repealed by a subsequent Ordinance thereunder; and
- (b) contain such consequential, incidental, supplementary and transitional provision as may appear to the States to be necessary or expedient.

(2) Any power conferred upon the States by this Law to make an Ordinance may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;
- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases, or different

provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes;

- (iii) any such provision either unconditionally or subject to any prescribed conditions.

Amendments to Gambling (Guernsey) Law, 1971.

25. The Gambling (Guernsey) Law, 1971 is amended as follows-

- (a) in section 2(1)(a) after the word "Committee" insert the words "or the Commission"; and
- (b) in section 13(1) after the definition of "bookmaker" insert the following definition-

"the Commission" means the Guernsey Gambling Control Commission established by the Guernsey Gambling Control Commission, Law, 2001;".

Interpretation.

26. (1) In this Law, unless the context otherwise requires -

"associated body" has the meaning given by section 22(4);

"Commission" means the body known as the Guernsey Gambling Control Commission established under section 1;

"Committee" means the Gambling Control Committee;

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

"function" includes a duty and a power and the carrying out of functions includes the performance of duties and the exercise of powers;

"Guernsey" means the Islands of Guernsey, Herm and Jethou;

"relevant enactment" means -

- (a) this Law;
- (b) the Gambling (Guernsey) Law, 1971;
- (c) any Ordinances made under this Law or the Gambling (Guernsey) Law, 1971; and
- (d) such other enactment as the States may by Ordinance designate for the purposes of this Law;

"Royal Court" means the Royal Court of Guernsey;

"Schedule" means the schedule to this Law; and

"States" means the States of Guernsey.

(2) In this Law, except where the context otherwise requires -

- (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.

Citation.

27. This Law may be cited as the Guernsey Gambling Control Commission Law, 2001.

Commencement.

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

SCHEDULE

Provisions as to the Guernsey Gambling Control Commission

1. The Commission shall consist of a Chairman and 3 other members appointed by the States upon the recommendation of the Committee.
2. The Chairman and other members of the Commission shall hold office for a period of five years (or such other shorter period as may be agreed between the States and any member appointed to the Commission) and vacate office as such in accordance with the terms of their appointments.
3. A person who ceases to hold office as a member of the Commission, or ceases to hold office as Chairman, shall be eligible for reappointment.
4. The Commission shall pay to the Chairman and other members of the Commission such remuneration, allowances and expenses as the Committee may from time to time by resolution determine.
5. Every member of the Commission shall, before discharging any function under this Law, take an oath or make an affirmation before the Royal Court sitting as an Ordinary Court in the terms set out at the foot of this part of the Schedule or in words to the like effect.
6. Where the members of the Commission meet together so as to transact any business -
 - (a) decisions shall be made and other matters determined or resolved by a majority of the members attending and voting in favour of the

decision or matter in question;

(b) each member has one vote; and

(c) in the event of an equality of votes, the Chairman has a second or casting vote.

7. The Commission may, if it thinks fit, transact any business by the circulation of papers to all of the members of the Commission, and a resolution in writing approved in writing by a majority of the members of the Commission shall be as valid and effectual as if passed at a meeting of the Commission by the votes of the members so approving the resolution.

8. The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any such member.

9. The Commission shall keep proper minutes of its proceedings, including minutes of any business transacted as permitted by paragraph 7 of this Schedule.

10. Subject to this Law, the Commission shall have power to make rules to regulate its own procedure.

Oath/Affirmation of office

"You [swear and promise on the faith and truth that you owe to God] [do solemnly, sincerely and truly declare and affirm] that you will well and faithfully discharge your functions as a member of the Guernsey Gambling Control Commission in accordance with law; that you will exercise the powers entrusted to you only as

appears necessary to you for the discharge of those functions; and that you will not disclose any information received by you in the discharge of those functions which to your knowledge may directly lead to the identification of any person, save to persons engaged in the discharge of those functions; pursuant to an express power conferred by or under the Guernsey Gambling Control Commission Law, 2001; or in any other case required by law."