

# ORDER IN COUNCIL

**XI**  
**2002**

ratifying a Projet de Loi

ENTITLED

## **The Hotel Casino Concession (Guernsey) Law, 2001**

(Registered on the Records of the Island of Guernsey  
on the 29th April, 2002.)



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2002

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 29th day of April, 2002 before Andrew Christopher King Day, Esquire, Deputy 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 Peter Gerald Lane, Michael Henry De La Mare, and Michael John Tanguy, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 26th day of March, 2002, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Hotel Casino Concession (Guernsey) 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.

# At the Court at Buckingham Palace

The 26th day of March, 2002

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 12th day of February 2002 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 15th day of October, 1998, the States of Deliberation at a meeting held on the 1st day of November, 2001, approved a Bill or “Projet de Loi” entitled “The Hotel Casino Concession (Guernsey) 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 Hotel Casino Concession (Guernsey) Law, 2001”, and to order that the same shall have force of law in the Island 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 Island 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 Hotel Casino Concession (Guernsey) Law, 2001**

**THE STATES**, in pursuance of their Resolution of the 15th day of October, 1998<sup>a</sup>, 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.

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<sup>a</sup> Billet d'État No. XX of 1998.



**Application for a concession.**

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

(2) There shall be submitted with an application made under subsection (1), a written statement made by the applicant or, where the applicant is a company, made by a director of that company, in a form set out in Part II of the Schedule.

**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 Board, and

(cc) to the satisfaction of the Board;

(iv) that the concessionaire shall operate the concession premises in accordance with an operations policy approved by the Board;

(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.

**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 Board 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.

**Rights of appeal.**

7. (1) A concessionaire aggrieved by a decision of the Board 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 Board'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 Board's decision;
- (b) by summons served on the President of the Board stating the grounds and material facts on which the appellant relies.

(4) The Board 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<sup>b</sup>.

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

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

**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

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<sup>b</sup> O.R.C. No. VII of 1989.

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 -

**"Board"** means the States of Guernsey Tourist Board;

**"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<sup>c</sup> 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);

**"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;

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<sup>c</sup> Ordinance II of 2002.

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

**"hotel boarding permit"** means a boarding permit granted under the Tourist Law, 1948<sup>d</sup> 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 Board and as the same may from time to time be varied by agreement with the Board;

**"Register of Companies"** has the same meaning as in the Companies (Guernsey) Law, 1994<sup>e</sup>;

**"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 -

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<sup>d</sup> 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.

<sup>e</sup> 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.

**Power to amend by Ordinance**

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

**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.



## Section 2

### **SCHEDULE**

#### **Part I**

#### **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*].