



Jersey

# **GAMBLING (ANCILLARY SERVICES AND MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 2012**

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Jersey

## **GAMBLING (ANCILLARY SERVICES AND MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 2012**

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## **GAMBLING (ANCILLARY SERVICES AND MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 2012**

**THE STATES**, in pursuance of Articles 8, 23, 24 and 56 of the [Gambling \(Jersey\) Law 2012](#), have made the following Regulations –

Commencement [[see endnotes](#)]

### **PART 1**

#### **INTERPRETATION AND DESIGNATION**

##### **1 Interpretation**

In these Regulations, unless the context otherwise requires –

“electronic communication” has the meaning given by the [Electronic Communications \(Jersey\) Law 2000](#), but does not include voice communication by telephone;

“electronic equipment” means equipment that is any one or more of the following –

- (a) software;
- (b) electrically powered;
- (c) having components that are electronic, within the meaning of the [Electronic Communications \(Jersey\) Law 2000](#); or
- (d) designed or adapted, or held out as designed or adapted or suitable, for use in gambling that is effected by means of electronic communication;

“gambling-specific”, in relation to equipment or a service, means designed or adapted, or held out as being designed or adapted or otherwise suitable for the purpose of enabling individuals or commercial operators to gamble;

“Law” means the [Gambling \(Jersey\) Law 2012](#).

##### **2 Relevant service defined and designated**

- (1) For the purpose of these Regulations a relevant service is a service that –

- (a) is provided in or from within Jersey;
  - (b) is provided by way of business; and
  - (c) is not provided to any person who gambles otherwise than by way of business.
- (2) A relevant service is designated as an ancillary service for the purposes of the Law, to the extent that it does not fall within Article 23(1) of the Law, if it falls within any one or more of paragraphs (2) to (5) of Regulation 3.

## PART 2

### ANCILLARY PERMITS

#### 3 Ancillary permits required

- (1) A person must hold a permit if the person provides a relevant service that is any one or more of the following –
  - (a) an electronic operator service, being a service falling within paragraph (2);
  - (b) an overseas operator service, being a service falling within paragraph (3);
  - (c) an electronic equipment service, being a service falling within paragraph (4); or
  - (d) a physical hosting service, being a service falling within paragraph (5).
- (2) A service falls within this paragraph, as an electronic operator service, if –
  - (a) it is a gambling-specific service, other than a service consisting solely of any one or more of the following –
    - (i) legal advice or representation, or advice as to a requirement of a code of practice or of a condition on a licence or permit,
    - (ii) a service provided by way of exempt finance business within the meaning of Article 5(3) of the Law, or
    - (iii) a service that is or could be funded, coordinated or promoted by the Commission under its social responsibility function, within the meaning of the [Gambling Commission \(Jersey\) Law 2010](#);
  - (b) it is provided to a commercial operator (irrespective of whether that operator requires a licence); and
  - (c) it is provided in relation to gambling that is effected by means of –
    - (i) electronic communication, or
    - (ii) gambling-specific electronic equipment.
- (3) A service falls within this paragraph, as an overseas operator service, if –
  - (a) it consists wholly or mainly of facilitating gambling by the person to whom it is provided (“the recipient”);

- (b) it is provided by a person who is an associate of the recipient, or a principal person in relation to the recipient (or would be such a person if the recipient were to apply for a licence); and
  - (c) the recipient is a commercial operator who provides a gambling service otherwise than wholly in or from within Jersey.
- (4) A service falls within this paragraph, as an electronic equipment service, if it consists of –
  - (a) the design or manufacture of gambling-specific electronic equipment;
  - (b) the import into Jersey of such equipment; or
  - (c) the sale or hire of such equipment.
- (5) A service falls within this paragraph, as a physical hosting service, if one or more of the conditions in paragraph (6) is met and the service consists of –
  - (a) providing use of premises in Jersey that are designed or adapted, or held out as designed or adapted, wholly or mainly –
    - (i) to house electronic equipment, and
    - (ii) to enable electronic communication between that equipment and persons or other equipment not present on those premises; or
  - (b) providing use of such equipment housed on such premises.
- (6) The conditions are that the person providing the service –
  - (a) holds the service out as being able to be used for gambling or for the provision of a gambling service;
  - (b) knows that a user of the service is using or intends to use it to provide a gambling service; or
  - (c) requires users of the service to provide, or allow access to, information as to the use to which the user puts the service, and does not –
    - (i) prohibit the use of the service for provision of gambling services, or
    - (ii) take reasonable steps to render such use impracticable.

#### **4 Application to permits of provisions relating to licences**

- (1) In this Regulation “relevant provision” means any of the following provisions of the Law –
  - (a) Article 11;
  - (b) Article 12, modified so that the Commission may grant a permit in exceptional circumstances notwithstanding anything in that Article;
  - (c) Articles 13 to 15;
  - (d) Articles 16 and 17, modified so that the conditions set out in them are not mandatory but may be imposed by the Commission;
  - (e) Article 18, other than paragraphs (3)(a)(ii) and (3)(c)(ii), and with paragraph (1) modified so that the Commission may impose

- supplementary conditions in addition to any imposed under the modified Articles 16 and 17;
- (f) Article 19;
  - (g) Article 20, modified so that the matters set out in subparagraphs (b) to (k) of that Article are not compulsory but may be the subject of conditions imposed by the Commission;
  - (h) Article 21;
  - (i) Article 22, modified so that gambling yield in a relevant period is the amount received in that period as payment for the provision of ancillary services under the permit; and
  - (j) each provision of Part 4 that otherwise applies only to licences.
- (2) A relevant provision applies in respect of a permit as it applies in respect of a licence –
- (a) with the substitution of references to a permit for references to a licence;
  - (b) with the substitution of references to ancillary services for references to commercial gambling services; and
  - (c) with the substitution of references to Article 24 of the Law for references to Article 8 and Article 10 of the Law.

## **5 Statement of policy as to permits**

- (1) Article 9 of the Law applies to the Commission's policy in respect of permits as it applies to licences.
- (2) The statement of policy prepared under paragraph (1) may be included in the same document or documents as the statement prepared under Article 9 of the Law, or in a separate document or documents.

## **6 Notification of and appeal against decisions as to permits**

- (1) The notification and appeal provisions apply to decisions in respect of permits as they apply to decisions in respect of licences.
- (2) The notification and appeal provisions are –
  - (a) Article 43 of the Law, other than paragraphs (2)(d) and (3) of that Article; and
  - (b) Article 45 of the Law.



## PART 3

### MISCELLANEOUS

#### **7 Requirements not applied to certain individuals in relation to licensees or permit-holders**

- (1) Article 8(1) of the Law does not apply, and accordingly a person may provide a commercial gambling service without himself or herself holding a licence, if that person –
  - (a) is a relevant person in relation to another person who is a licensee; and
  - (b) provides the service only in the course of that licensee's licensed business.
- (2) Nothing in these Regulations requires a person to hold a permit, and accordingly a person may provide an ancillary service without himself or herself holding a permit, if that person –
  - (a) is a relevant person in relation to another person who holds a permit or a licence; and
  - (b) provides the service only in the course of the business for which that other person holds the permit or licence.
- (3) A relevant person for the purposes of paragraphs (1) and (2) is, subject to paragraph (4), an individual who is –
  - (a) an employee of the licensee or permit-holder;
  - (b) a partner of the licensee or permit-holder, where that licensee or permit-holder is a limited liability partnership;
  - (c) a director, manager, secretary or other similar officer of the licensee or permit-holder, where that licensee or permit-holder is a body corporate; or
  - (d) a member of the licensee or permit-holder, where that licensee or permit-holder is a body corporate whose affairs are managed by its members and the member provides the service in connection with his or her functions of management.
- (4) A person is not a relevant person if he or she falls within any of the subparagraphs of paragraph (3) wholly or partly as a result of an arrangement made by another person by way of carrying on business that –
  - (a) is exempt finance business by virtue of Article 5(3)(c) of the Law; and
  - (b) is trust company business within the meaning of the [Financial Services \(Jersey\) Law 1998](#).
- (5) Nothing in this Regulation is to be read as affecting the operation of Article 53 of the Law.

## **8 Type of gambling service treated as provided in or from within Jersey**

To the extent that it would not otherwise be treated as being in or from within Jersey, the provision of a gambling service is to be so treated if in Jersey there is any equipment, other than software, that –

- (a) is operated –
  - (i) by the person providing the gambling service, or
  - (ii) on behalf of that person, by a person other than a customer of that person; and
- (b) controls, wholly or partly –
  - (i) the outcome of the gambling in relation to which the gambling service is provided, or
  - (ii) the operation of a website or television channel, through which such a customer may gamble by means of electronic communication.

## **9 Transitional provision for remote gambling facility provider's licence**

- (1) For the purposes of this Regulation, a preserved facility licence is a remote gambling facility provider's licence that –
  - (a) was granted under the Gambling (Remote Gambling) (Jersey) Regulations 2008;
  - (b) was in effect immediately before the commencement of these Regulations; and
  - (c) permitted the person to whom it was granted to carry on an activity that requires a permit under these Regulations.
- (2) A preserved facility licence is to be treated after the commencement of these Regulations as if it were a permit granted under these Regulations, being a permit that is subject to a condition that no activity may be carried on under it other than an activity that could lawfully be carried on under the preserved facility licence immediately before the commencement of these Regulations.
- (3) The preserved facility licence is to be treated as expiring on whichever is the sooner of –
  - (a) the date on which it would have expired but for the commencement of these Regulations; and
  - (b) one year after that commencement.

## **10 Citation**

These Regulations may be cited as the Gambling (Ancillary Services and Miscellaneous Provisions) (Jersey) Regulations 2012.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Gambling (Ancillary Services and Miscellaneous Provisions) (Jersey) Regulations 2012	<a href="#">R&amp;O.131/2012</a>	1 January 2013

### Table of Renumbered Provisions

Original	Current
None	

### Table of Endnote References

*There are currently no endnote references*