

JERSEY GAMBLING COMMISSION



Policy Statement for the Conduct, Regulation and Licensing of Gambling Machines

**October 2013
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Introduction

This document sets out the Commission's policy for the regulation of Gambling Machines in Jersey, it details those machines excluded from regulation and also details the relevant permissions, responsibilities and appropriate enforcement in respect of those machines subject to regulatory oversight.

This policy is published in accordance with Article 9 of the Gambling (Jersey) Law 2012 (the Law). In publishing this policy, the Commission sets out the circumstances in which it will generally grant or refuse an application for a Licence and the conditions that will apply to it.

Guiding Principles

The Guiding Principles are set out in the Gambling Commission (Jersey) Law 2010 and are as follows:

- gambling should be regulated in accordance with generally accepted international standards to prevent fraud and money laundering, and should not be permitted to be a source of crime;
- gambling should be verifiably fair to consumers of those services;
- gambling should always be conducted responsibly and with safeguards necessary to protect children and vulnerable people.

In exercising its functions under that Law and the Gambling Law, the Commission must always have regard to these principles. The Commission will, therefore, only permit gambling if it considers it reasonably consistent with the pursuit of the Guiding Principles.

This statement will be reviewed by the Commission from time to time and revised after consultation with relevant persons and organisations as appropriate.

Statutory Functions

The Commission's functions with regard to Gambling Machine Licences comprise three key areas: applying licences, compliance and enforcement. In particular, the Commission has a duty to:

- determine applications for Licences, specify the conditions to be contained in such Licences, and determine applications for variation or renewal;
- assess compliance with the Law and with any Licence condition, code of practice or other provision included by virtue of the Law, and request information from Licensees as necessary;
- take regulatory action against any Licensee failing to comply with the conditions stated in this document, or in relation to offences under the Law.

What are Gambling Machines?

In simplest terms, a Gambling Machine is a device that is operated through the injection of money or monies worth for the chance of winning a prize. For the purposes of this policy a Gambling Machine extends to any game, machine or device that accepts money or monies

worth (such as tokens) and which after play, operation or determination offers a prize or prizes in money or monies worth based on the use of chance or skill and chance combined.

General Class Licence

The Commission does not believe that all Gambling Machine products require the same level of control and so allows certain types of machine to operate under a General Class Gambling Machine Licence. The Commission may vary types of machines falling under this heading, but the permission currently identifies:

Stackers

A Stacker is a trade branded machine that contains an integral display of merchandise that could be won by playing the game. The objective of the game is to bring into line rows of moving blocks on top of each other. When a player stacks 11 rows they will win a low value prize, possibly lower in value than the stake to play the game. On reaching the ultimate row a major prize is won.

Pushers

A Pusher is a machine that generally contains two encased trays laden with coins; the lower tray is static, while upper tray is in constant but paced motion. The player inserts coins in an attempt to push those other coins off the trays and down the pay-out chute by way of prize.

Cranes

A crane machine is another form of merchandising machine. The player inserts a coin and operates the direction of the fulcrum over a pit filled with plush toys; the player then activates a release that drops a claw into the toys. The claw closes, grabbing a toy and depending on the strength of the hold it has on the item, will either deliver it as prize or drop it back into the pit.

Tournament Touchscreen Machines

Touchscreen technology is not new; the old electro-mechanical "one arm-bandit" gambling machine having long given way to the multi-game, multi-touchscreen cabinet. For clarification: where this policy refers to Tournament Touchscreens, it refers to cabinets that solely operate and offer a game whereby a player enters into a multi-player competition or tournament. At the end of the competition/tournament the player with the highest score wins a prize. However, this prize is **not** produced or delivered by the machine in the form of monies or monies worth. The organiser of the tournament may offer a prize for the highest score.

Touchscreen machines, however, are merely a system to deploy games and they can offer a multitude of different games, styles and formats. In order to benefit from the General Class Licence, such a machine cannot have a mix of games; it must only offer tournament or competition type games. Where a Touchscreen offers any other game that matches the types or classifications detailed in this policy, then the requirements of this policy must be adhered to and the appropriate undertakings complied with or licence sought.

Although exempt from regulation, the Commission requires operators, owners and suppliers to inform the Commission of the address where the machines are operated, the numbers of these machines sited at that address and contact details of the person responsible for the devices.

Category 1 and 2 Gambling Machines

Under the following section, Gambling Machine categorisation is defined and explained. However, it is important to include here and under the heading of General Class Licence Category 1 and 2 Gambling Machines. These machines are not subject to the same annual licensing as the other categories of machines. Category 1 and 2 Gambling Machines are identified in the following way:

Gambling Machine Category	Maximum Stake per Game	Maximum Prize
Category 1 (General Class Licence: no fee)	Up to 50p	Up to £10
Category 2 (General Class Licence: no fee)	Up to £1	Up to £50

While Category 1 and 2 Gambling Machines are not subject to an annual licensing scheme (see categories 3 and 4), they are controlled by the following series of requirements:

- limited to defined location (venues are defined below);
- limited to 2 cabinets in these locations;
- age restrictions on play (18 years old and older only);
- subject to prohibitive signage (as above);
- subject to information re payout percentages;
- subject to reportable events (see headings further on);
- subject to notifications regarding installation and removal.

The Commission is bound to review all its policies on a yearly basis, and the position on relegation of Category 1 and 2 Gambling Machines to a General Class Gambling Machine Licence may change.

To clarify: there is no fee applied to any definition or category of gambling machine falling under a General Class Licence.

Gambling Machine Classification

This policy does not make a distinction between what is commonly known as a Skill With Prize machine (SWP) and a compensated or random Gambling Machine, generally known as an Amusement With Prizes (AWP) machine. Although these devices may be considered differently within the manufacturing market¹, the common factor remains the mode of operation and gratification: accepting of money or monies worth and the opportunity of receiving after play a prize of money or monies worth.

For ease of reference Gambling Machines receive classification on the basis of the cost of a stake (price to play) and the value of any potential prize. It is important to note that the following stakes and prizes are the established limits on what may be played and won from Gambling Machines in Jersey. Any machine not meeting or exceeding these published thresholds will be deemed to be illegal; site-owners along with any machine supplier will be committing a criminal offence if they offer Gambling Machines for play that are not recognised by these categories. If the site-owner holds a licence from the Commission and replaces the licenced device with a different machine for the public to play, with prizes in excess of these limits or stakes exceeding the published maximums, they will be subject to civil penalty procedures and in all likelihood their licence will be revoked.

Machine Categories

The maximum stake and prize categories are described in the following table:

Gambling Machine Category	Maximum Stake per Game	Maximum Prize
Category 1 (General Class Licence: no fee)	Up to £50p	Up to £10
Category 2 (General Class Licence: no fee)	Up to £1	Up to £50
Category 3 (refer to Fees Notice for annual fee)	Up to £1	Up to £100
Category 4 (refer to Fees Notice for annual fee)	Up to £2	Up to £250

¹ UK definitions and determinations often change (e.g. a skill machine redefined as a gambling game) and to avoid any doubt stemming from reclassifications abroad, the Commission has combined skill and chance machines to sit under single category headings.

Machine Locations

The following table defines where machines may be sited and details the applicable restrictions for these categories:

Location	Gambling Machine Categories Allowed	Location Conditions
Premises with a First, Fifth and Seventh Category Licence under the Licensing (Jersey) Law 1974 First – Taverner’s Licence Fifth – Club Licence Seventh – Entertainment Licence	Category 1 Category 2 Category 3	Only available for play when the premises are ordinarily open to the public. Play not allowed by under 18s.
Location	Gambling Machine Categories Allowed	Location Conditions
Premises with a Second Category Licence under the Licensing (Jersey) Law 1974 Second – Residential Licence	Category 1 Category 2 Category 3	In line-of-sight from the bar staff. May only be switched on for operation while the bar is manned. Play not allowed by under 18s.
Cafes, commonly known under the definition of Places of Refreshment as defined by the Places of Refreshments (Jersey) Law 1967	Category 1	In line-of-sight from the staff. Play not allowed by under 18s.
Cafes, commonly known under the definition of Places of Refreshment as defined by the Places of Refreshments (Jersey) Law 1967.	Category 2	In line-of-sight from the staff. Play not allowed by under 18s.
Strictly limited to a premises being a Private Members Club	Category 1 Category 2 Category 3 Category 4	Only available for playing when the premises are ordinarily open to its members. Play not allowed by under 18s.

Note: In the case of a cabinet with multiple games: the game with the highest category of stake and prize dictates where the machine may be located along with the restrictions placed upon that particular category of machine.

Commission Directions

The Commission reserves the right to deem certain premises or locations within premises unsuitable for the siting of Gambling Machines if the location raises issues that may contradict both the Guiding Principles and the requirements set out under this policy.

Machine Numbers

The maximum number of Gambling Machines allowed per premises, regardless of the category of those machines, is limited to TWO (2).

Who needs a Gambling Machine Licence?

Any Jersey business that wants to offer Category 3 and 4 Gambling Machines and qualifies as a location for siting them will require a licence per machine.

A licence is an approval for the holder to provide a gambling service to the public and is necessarily subject to the licensing requirements of the Gambling (Jersey) Law 2012. This may sound quite onerous given the nature of the activity combined with the fact most machines will be supplied by a company approved by the Commission. However, the Commission intends to be flexible and will apply light-touch regulation to this scheme, especially in cases where machines are supplied by one of its Permit holders.

Self-Supply

A business may self-supply any category of Gambling Machines, but the business must be able to demonstrate technical proficiency and sufficient knowledge of the Gambling Machines to satisfy the Commission that it will comply with all relevant conditions and standards of a Machine Supplier's Permit. While self-supply would not require a Permit unless the business rented out any of its Gambling Machine stock to another business, specific conditions would be adopted from the Machines Suppliers policy and placed on the Gambling Machine licence.

Importation of Machines

The Commission may request gambling machines be subject to independent testing to verify that they are operating in accordance with the Commission's guiding principles. It would be disproportionate to expect machines already in general use in Jersey to be tested or re-tested, but it is important to establish a link between importation and the requirement to have a testing certificate. For the sake of clarity, proof of testing also applies to imported software and upgrades to existing games. Ordinarily the burden for testing compliance rests with the importer / supplier.

Limitation on the extent of this policy

Some machines are exempt from regulation other than suppliers or owners reporting the machine's whereabouts; those are described under the heading 'General Class Licence', while other machines are subject to a dedicated and separate licence scheme primarily on the grounds they are gaming devices offered in dedicated gambling premises². Devices described under the following headings are not subject to this policy:

Machines in Licenced Betting Offices

Those licences granted to bookmakers for the operation of server-based Gaming Machines (Gaming Machines Type I and II) are covered by a separate policy.

Vending Machines

For the avoidance of doubt, a Gambling Machine is not a service or vending machine. It is only when reward by means of chance, or chance and skill combined, is offered that the machine then becomes a mode of gambling.

² This policy would not apply to **Arcades**, which would be subject to a separate policy.

Amusement with Prizes Operator Licence is not subject to this policy and remains governed by a separate and dedicated policy.

Policy: General Requirements

Licences: Applications and Duration

Category 3 and 4 Gambling Machine Licences are subject to an application process. The application is for a licence known as a **Gambling Machine Licence**.

The award of a Gambling Machine Licence should not be taken as a qualification that the holder is an expert in gambling or competent to run a dedicated gambling operation. Nor does the award of a Gambling Machine licence deem the location where the machine is to be sited as a gambling licenced premises. The licence allows for the specific activity of Gambling Machine gambling to take place on an approved machine in a suitable venue. However, the licensee will be personally or corporately responsible for adhering to the conditions of the licence.

A Gambling Machine Licence is awarded per machine and is valid for 1 year from the date it is granted.

An applicant/licensee must describe the category of machine they require and check that this machine accords to the proper location as set out in the tables above.

The Commission may at its own discretion request information or documentation from the applicant in determining whether to grant a licence or physically assess the location as a suitable venue for the requested machine category. For example, the Commission may inspect and confirm the proposed location for machines is suitable and that the venue has the necessary sightlines (CCTV coverage may be considered as another method of line-of-sight monitoring).

Certain conditions apply to the grant of a Gambling Machine Licence and remain conditions after it has been granted. For example, once a Licence expires any unfulfilled duties in respect of a licence still apply and this extends to any unpaid fees. In considering an application for any licence the Commission must ensure that in granting it there is no contravention of the Guiding Principles (as outlined above) and that the application and award of a licence conforms to the requirements set out in this policy.

The onus is always placed on the applicant to satisfy the Commission that they are fit and proper persons to hold a licence and that the gambling activity they seek to offer would not bring the Island into disrepute.

Change of Circumstances During the Application Process

A duty is placed on the applicant to inform the Commission in writing of any change of circumstances pertinent to an application. For instance, if the applicant is subject to criminal or civil proceedings arising after the application was made. Any intervening circumstances would understandably alter the veracity of the original statements made to the Commission by the applicant. Once the applicant is aware of any material change he or she must inform the Commission as soon as reasonably possible and before the licence is issued; failure to do so may result in the revocation of that licence on the grounds of providing false or misleading information.

Withdrawing an Application

It remains the right of the applicant to withdraw an application at any time before a licence is granted or refused. The applicant must supply a written notice to the Commission stating the intention to withdraw the application.

Applying for the right licence?

In examining the application the Commission must consider whether the licence applied for is the correct form of approval required or whether the applicant would require another type of approval or in the case of Gambling Machine categories whether a licence is even required.

Grant of a Licence

It should be noted that the Commission is not compelled to award a licence just because someone has applied for one. The Commission may only grant a licence if it has examined and is satisfied of the applicants:

- **integrity** – e.g. the applicant is an established business, the location is a suitable location in relation to the types of machines permitted and there are no other factors that would make machine placements undesirable.
- **competence** – e.g. the applicant understands the rules governing a Gambling Machine licence (also refer to comments on self-supply).
- **financial standing** – e.g. only in so far as any top prize offered and won can be redeemed in full from the licensee by the winning customer.

All points satisfied, the applicant may then be considered a fit and proper person to hold a Gambling Machine Licence.

Matters the Commission Must Take into Account

Without limiting the matters that the Commission may take into account in determining whether to grant a Licence to an applicant, the Commission must take into account the following matters:

- financial standing (limited to the applicant's ability to honour all stated prizes in full);
- whether the applicant has at any time been subject to adverse findings, in either the provision of any professional service or gambling related services by a regulatory / law enforcement agency situated in a country or territory outside Jersey (e.g. has the applicant as an individual or the company as part of a retail chain been subject to any investigation in relation to gambling promotions or any other matter);
- whether the applicant has at any time (whether or not in relation to the application):
 - failed to provide or report any information to the Commission, or
 - provided to the Commission information which was untrue or misleading in any material particular.

Convictions

Remembering that one of the Commission's key licensing principles is to keep gambling crime free, this necessarily extends to all applicants for licences. The Commission must take into account any convictions, and this includes convictions outside of Jersey the applicant or applicant company has. Convictions include:

- an offence under this Gambling (Jersey) Law 2012, the Gambling (Ancillary Services and Miscellaneous Provisions) (Jersey) Regulations 2012 or the Gambling Commission (Jersey) Law 2010,
- an offence under the anti-money laundering and counter-terrorism legislation;
- an offence under the Data Protection (Jersey) Law 2018, the Supply of Goods and Services (Jersey) Law 2009 or the Distance Selling (Jersey) Law 2007;
- an offence of perjury or conspiracy to pervert the course of justice, or any other offence involving fraud or other dishonesty,
- any offence, under the law of a country or territory outside Jersey.

Applying for a New Licence

A licence lasts for 1 year and if the holder of a Gambling Machine Licence applies for a new licence before the expiry of the current one, the Commission may not necessarily require the same degree of information to pursue the new application. The Commission will examine what information it already holds and consider whether the known applicant has a good compliance record and there has been no material or significant change to the location or ownership of the venue. If there have been no significant changes and the holder of the licence has proved to be compliant with the licence conditions, the Commission may waive or reduce any application fee for a new Licence.

It should be noted that a Gambling Machine Licence is awarded per machine and is subject to fees documented in the relevant fee statement. If on application for a new licence there has been no material change of the kind mentioned in the preceding paragraph, the applicant should send with the application form a statement to this effect.

Compliance History of Licensees

The compliance history of the licensee will always be reviewed when considering any application for a new licence. These matters are prescribed in the Law and are as follows:

The Commission must consider whether the applicant has at any time failed, in any material respect, to comply with a condition on a current or previous licence, a code of practice or direction given to the person at any time.

The Commission must consider whether:

- at any time a direction has been given on the basis of any default by the applicant;
- an injunction has been issued under Article 36(2) on the applicant;
- an order has been made under Article 36(4) on the basis of any contravention by the applicant;
- the applicant has been the subject of an order for intervention under Article 37;
- a Licence held by the applicant or any gambling promotion has managed has been revoked under Article 38, or
- the applicant has been served with a final notice of a civil financial penalty under Article 39.

Duration of Licence

A Licence is valid for 1 year from the date of issue and subject to a fee (see Fees Notice). A licence will not be issued unless a fee is submitted with the application. It is recommended that applications for a new licence from existing licensees be submitted 6 weeks prior to the expiry of any current licence.

Please Note: A licence is not transferable. It relates to a Gambling Machine on a specified premises.

Grounds for refusal or revocation of a Licence

In accordance with the matters the Commission *must* consider when assessing an application, the following matters – which are not exhaustive - may compel the Commission to revoke or refuse an application for a licence:

- the applicant has held a licence previously and proved to be incompetent or negligent or dishonest;
- the Licensee fails to pay fees;
- the Licensee or applicant produced misleading and inaccurate information when applying for a licence or subsequently under the reporting conditions applied to a Licensee;
- the Licensee has breached such conditions of a licence without taking remedial action required and set out in notices from the Commission;
- on application the person is found not to be bona fide or indeed would require another form of commercial gambling licence;
- the Licensee holder requests it;
- Jersey's reputation is imperilled;
- the Commission has issued a direction under Art.16(4).

The Commission must articulate reasons for refusing and revoking a licence in line with Article 43 (notification of decisions) and the right of appeal must be applied under Article 45.

Article 43: Notification of decisions

The Commission must notify the applicant or Licensee (where applicable) of:

- the decision to grant a licence and the conditions applied to that licence,
- the decision to refuse a licence and the reasons leading to this decision,
- any remedial action required by the applicant to obtain a licence,
- the revocation of a licence and the grounds for that revocation,
- the effective date of any of these notifications.

NB: A Licensee has the right to appeal any enforcement decision pursued by the Commission.

Licence Conditions

The Gambling (Jersey) Law 2012 contains a set of mandatory licence conditions, which must be applied to all licences. Some conditions extend to the non-licensed Category 1 and 2 Gambling Machines in the form of good governance requirements, not least of which are the social responsibility measures. While the Commission has some discretion in relation to other conditions contained under subsequent Articles, the matters set out under Article 15 compel the application of Article 16 and 17 conditions on any commercial gambling licence and at least one supplementary condition (Article 18). However, the Commission interprets these conditions to fit the nature of each separate gambling activity, which makes for a proportionate approach to the regulation of different forms of gambling.

Gambling Machine Licence: Specific Conditions

Private Members Club: Category 4 Gambling Machine Conditions

A private members club is as it sounds, a place with access restricted to bona fide members and to which ordinary members of the public do not have access other than as guests, and then only accompanied by a subscribing member of the club. In this sense, a club is an established venue, a permanent premises that has no other function other than as a place where subscribing members may meet, drink, dine and in some cases stay the night.

What it is not is a temporary venue or hired room where a membership club may meet to pursue some likeminded hobby or interest. For example, a room above a pub or function suite in a hotel hired on a regular basis as a place of congregation for any club or society (no matter their pursuits) would not classify as a private members club for the purposes of identifying a location for Category 4 Gambling Machines.

A Category 4 Gambling Machine is subject to the following conditions:

- Category 4 Gambling Machines may only be sited in a private members club and limited to 2 machines.
- Category 4 Gambling Machines must be placed within clear sight of the bar; where there is no bar the machine must be located in such a position that persons employed or elected by the club to undertake supervisory functions can see the machine; supervision may be by the use of CCTV. This monitoring condition is required to ensure no children or young persons have access to the Gambling Machines.
- Pay-out percentages must be made clear and appear on the Gambling Machine to inform the customer of any probable returns and what percentage constitutes the house edge³.
- Pay-out can be made by the machine in the form of cash or redeemable ticket for cash. All wins must be paid in full.
- The Commission may direct the licensee that the machine(s) have to be connected to a remote monitoring system that the Commission has access to.
- All gambling games must have been tested to verify fairness and compliance with the stated rules of play and it is a condition that the licensee ensures this is the case.
- The game content of Category 4 Gambling Machines is limited to reels or other symbol matching games; the promotion of these games may be actual as in mechanical delivery or virtual as in video generated graphics.

³ This is a term used in relation to bankers games to define any advantage the person offering the gambling has over the person playing the game. Both the house and the player are subject to chance which means the probability of winning or losing, however, the house, if it is to establish any profit at all, will not offer true odds such as £1.00 for every £1.00 staked. In the case of Gambling Machines if a pay-out percentage states 98%, this informs the player that for every £1 they spend the machine will pay them back (over time) 98p, the remainder, the 2p, is the 'house edge'.

Conditions applicable to all Categories of Gambling Machine (1 – 4)

- The licensee shall display a notice stating that no one under the age of 18 is allowed to play the Gambling Machines and this must be displayed in a prominent manner either on the machine cabinet or in some conspicuous place near to the Gambling Machine;
- All winnings must be paid in full; if redeemable over the counter then information to this effect must be clearly provided;
- Where house edge applies, signage to this effect must be clearly provided;
- No Gambling Machine may be offered for play without a valid licence from the Commission;
- No machine may be exchanged or altered without prior consent from the Commission (the exchange of a machine – like for like – does not require a new licence);
- Gambling Machines may be a mix of any of the categories detailed in this Policy (where permitted), but the limit remains at 2 machines regardless of categorisation;
- Licensees and persons offering category 1 and 2 Gambling Machines for play must ensure they comply with location conditions tabled above;
- A licensee must have licences ready for inspection by any Commission officer.

A Gambling Machine Licence is designed to permit Jersey-based businesses that are not professional gambling businesses, to offer a limited gambling function. However, holders of this licence must satisfy themselves that they have the necessary systems in place to comply with applicable licence conditions.

Social Responsibility Conditions

Underage Provisions

Licensees and persons offering Category 1 and 2 Gambling Machines must take all reasonable steps to ensure that staff understand their responsibilities for preventing underage gambling. The licensee should apply all similar procedures used in relation to the avoidance of the sale of alcohol to minors.

Checking the age of apparently underage customers

Staff should challenge any customer who appears to be under 18 and ask for documentary evidence to support the claim of being 18 years of age or older.

Licensees must only accept identification which:

- contains a photograph from which the individual can be identified
- states the individual's date of birth
- is valid
- is legible and has no visible signs of tampering or reproduction.

Government issued ID such as a driving licence or passport should be adopted as a primary source for age verification. A card issued by a recognised scheme for age awareness may also be accepted, but in any case of doubt further evidence of proof of age should be requested.

Anyone who appears to be underage that tries to access the Gambling Machine and cannot produce an acceptable form of identification must be asked to desist or leave the premises. Any such incident must be recorded and made available to officers of the Commission on request.

Recidivists

Procedures should be put into effect for dealing with cases where a child or young person repeatedly attempts to gamble on the Gambling Machine including oral warnings and reporting the offence to the Commission.

Reportable

Licensees and persons offering Category 1 and 2 Gambling Machines are subject to a condition that if they (or anyone employed by them) becomes aware that a child is using or has used a Gambling Machine then they must return any money paid into the machine by the child as soon as is reasonably practicable after subtracting any monies that have been inadvertently won. Such an event **MUST** be reported to the Commission.

Vulnerable Persons Provisions

Licensees and persons offering category 1 and 2 Gambling Machines must remain vigilant in respect of those customers displaying signs that their gambling on the machine is becoming hard to control. There are various help providers for those persons who have recognised they have a gambling problem and, depending on the type of Gambling Machine, some information will be delivered by the terminal. The Commission can provide further help and guidance if required.

Mandatory Conditions

It is a condition of every Gambling Machine Licence that services offered to the public only take place from the premises specified on the licence and that these premises are acceptable to the Commission.

Advertising

It is a condition that the holder of a Gambling Machine Licence ensures that they do not advertise gambling to or at children which for the purpose of this Licence means under 18 year olds. A promoter may advertise, however an advertisement must comply with the Commission's Advertising Policy. **NB: Advertising must not be directed at children or young people.** (See: [Policy Statement for Advertising Commercial or Charitable Gambling](#))

Compliance with Other Legislation

It is a condition of every Gambling Machine Licence that the gambling must comply with the Data Protection (Jersey) Law 2018 and anti-money laundering and counter terrorism legislation.

Supervisory & Enforcement Conditions

Specialist Roles

It is a condition of every Gambling Machine Licence that the licensee must not allow an individual to perform a function, engage in employment or hold a position, if the licensee knows or can reasonably be expected to know that such performance, engagement or holding is in contravention of a direction referenced under Article 35(2)(c).

Namely, require any individual to:

- not perform a specified function (or any function at all) or,
- not engage in specified employment (or any employment at all) or
- not hold a specified position (or any position at all) in the business.

Right of Entry and Inspection

It is a condition of every Gambling Machine Licence that the licensee must co-operate with the Commission to enable it to carry out reasonable routine examinations, including occasional examinations of the Gambling Machines.

Restrictions: Right of Entry & Examination

It is a condition of every Gambling Machine Licence that the licensee must allow the right of entry and the examination of relevant records by Commission personnel, noting that such examination is strictly limited to records pertaining to Gambling Machines and not records relating to the primary business activity.

Routine Examination

In connection with any routine examination, it is a condition that the licensee must:

- supply to the Commission information in a format and at times specified by the Commission;
- provide answers to questions asked by the Commission;
- allow officers or agents of the Commission to enter any premises occupied or used by the licensee for the conduct of the gambling [restrictions set out above];
- allow officers or agents of the Commission, while on the premises [restrictions set out above]:
 - to search the premises,
 - to examine equipment on the premises,
 - to take possession of any information or documents on the premises or accessible (electronically or otherwise) from the premises,
 - to take, in relation to any such equipment, information or documents, any other steps that may appear to be necessary to preserve them or prevent interference with them,
 - to require any person present on the premises to provide an explanation of such equipment, information or documents, if the person appears to be in possession of relevant information,
 - to take copies of, or extracts from such documents.

Reporting Conditions

Mandatory Conditions – Change of Ownership

It is a condition of the Gambling Machine Licence that the licensee must, on request, provide the Commission with information in relation to the structure, control and membership constituting the licensee.

If the licensee is a company and the company is bought in whole or in part, the licensee *must* ensure that the Commission is informed. A change in ownership or control constitutes a *material change*. The sale of a bar or café to another person would require early notification to the Commission; the name on the licence must reflect the person who is responsible for offering those Gambling Machines for play on the premises.

Unless the premises is to be altered to such a degree that would alter the 'permitted locations' classification for machines, the Commission can amend the licence to reflect the new owner. However, the new owner, in this scenario, will be inspected to ensure he or she is aware of their responsibilities under this policy.

Reporting Relevant Information to the Commission

The holder of a Gambling Machine Licence must provide the Commission with any information in his or her possession if they know or have reasonable cause to believe that the information is relevant to the exercise of the Commission's functions under the Law in relation to the licensee.

The Licensee should apply an objective test to information of material significance and consider whether a failure to disclose this information would likely result in the Commission being misled on any matter in relation to the exercise of its regulatory functions.

Conditions: Reportable Matters

It is a condition that the holder of a Category 3 or 4 Gambling Machine Licence and persons offering Category 1 and 2 Gambling Machines report to the Commission any breach of conditions contained in this Policy. Licensees shall be fully liable and responsible for the conduct and actions of their Staff. A breach of any condition by any member of staff employed by the licensee shall be treated as if it were a breach by the licensee and liable to incur penalties.

Reportable: It is a condition of the Licence that the licensee retains a record of any such breaches and reports the occurrence to the Commission.

Limitation on the use of information

Unless in cases where the information provided is found to be false [Art. 34], it should be noted that any Statement made by the Licensee under this condition may not be used by the prosecution in evidence against the Licensee in any criminal proceedings. However, nothing prevents the Commission from using this statement for the purpose of pursuing its functions including the imposition of a civil financial penalty

General Reporting Condition

It is a condition of all Licences and Permits that the holder should inform the Commission of any occurrence, incident or event that impacts upon their suitability to hold a Licence or which the Commission might ordinarily expect to be made aware of.

Supplementary Condition:

Current Address

It is a condition that the Licensee provides and maintains a current address at which the Licensee agrees to accept service of any documents under the Law, and which is to be taken to be that person's proper address for the purpose of Article 7 of the Interpretation (Jersey) Law 1954.

Also refer to section headed: **Gambling Machine Licence: Specific Conditions**

Applying principles to functions

The regulator expects to apply the following principles in exercising its functions under the Law. These principles have been formulated with a view to ensuring that the Commission regulates in a transparent, accountable, proportionate, consistent and focused manner.

Regulating gambling in the public interest

The Commission will regulate in the public interest, having regard to, and in pursuit of, the guiding principles in the Law. In doing so the Commission will work with the sector and other stakeholders and will ensure that it takes into account:

- the need to protect the public;
- the need to maintain public confidence in the sector and the Commission;
- the importance of declaring and upholding proper standards of conduct;
- the competence of Licensees.

Reviewing regulatory approach

The Commission will keep its regulatory approach under review, and will make changes to that approach when appropriate (for example, to reflect experience or new developments or guidance under Article 5 of the Gambling Commission (Jersey) Law 2010).

Consultation

The Commission will consult on changes to its regulatory approach where it is appropriate to do so.

Decision making processes

The Commission will ensure that regulatory decisions are properly reasoned and evidence-based and undertaken in a timely manner.

Confirming licensing and regulatory decisions

The Commission will provide written notification of regulatory decisions, including:

- a clear explanation of the reasons on which the decision is based (in a level of detail proportionate to its impact); and

- details of any appeal mechanism(s).

The opportunity to make representations

The Commission will provide an opportunity for applicants to make representations to it in appropriate circumstances.

Minimum burden test

The Commission will ensure that its regulatory approach imposes the minimum burden necessary to promote the guiding principles. The Commission must take into account the regulatory impact on different types and sizes of applicant and licence holder and ensure, without compromising key principles, it does not unduly hinder the activity.

Provision of information

The Commission will endeavour to keep the sector fully informed of the requirements of the regulatory regime and provide general information, advice and guidance, both on request and on its own initiative, with a view to aiding compliance.

Complaints

The Commission will treat all complaints seriously and will address them in accordance with its complaints procedure.

Adopting a risk-based approach

The Commission will adopt a risk-based approach to regulation to ensure that its resources are concentrated where they are needed and can be most effective.

Proportionality

The Commission will generally use the least intrusive regulatory tool to achieve compliance and will ensure that any action is proportionate to the importance of the matters to which it relates, having regard to any risk assessment.

Gambling should be verifiably fair to consumers of those services

The Commission will ensure that the Licences it issues, together with the conditions it imposes and the codes of practice it publishes, set appropriate standards of conduct for Licensees, in connection with any permitted activity.

In the event of non-compliance, the Commission will ensure that conditions are imposed that deter future non-compliance on the part of the Licensee.

Gambling should always be conducted responsibly and with safeguards necessary to protect children and vulnerable people

The relevant gambling service should not present gambling in such a way that access by children and young persons is generally promoted.

Jersey Gambling Commission

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