

# An Olswang Guide to...

the new gambling licensing  
regime in Great Britain

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When the Gambling (Licensing and Advertising) Act (the "GLA") comes into force, remote operators not previously required to hold a licence in Great Britain will need to apply to the Gambling Commission for licences in order to continue to offer their services to customers in Great Britain. This guide sets out the changes to UK gambling legislation as a result of the GLA and to the process for becoming a Gambling Commission licensed operator as known at 29 July 2014.

We will update this note as the implementation of the GLA progresses.

## CHANGES TO THE LICENSING REGIME IN GREAT BRITAIN

### CURRENT POSITION (PRE-GLA)

Under the Gambling Act 2005 a licence from the Gambling Commission is required only if an operator has at least one piece of remote gambling equipment situated in Great Britain used in the provision of facilities for remote gambling. Operators with no remote gambling equipment situated in Great Britain are free to provide facilities for gambling to consumers in Great Britain, and may advertise these services if they are subject to the laws of another EEA state (which includes, for the purposes of the Gambling Act, Gibraltar) or a 'White List' jurisdiction (Antigua and Barbuda, the Isle of Man, Tasmania and Alderney).

### NEW POSITION (POST-GLA)

Operators who know, or should know, that their facilities for gambling are being used or are likely to be used by people situated in Great Britain will need to be licensed in Great Britain in order to avoid committing an offence. In addition, only holders of Gambling Commission licences will be able to advertise remote gambling facilities in Great Britain. Whether or not that operator has remote gambling equipment situated in Great Britain will no longer be relevant.

In light of the proposed changes to the regulation of remote gambling, the Gambling Commission is updating the licence application process.

## WHAT IS THE CURRENT TIMETABLE?

The GLA was given Royal Assent on 14 May 2014 and is expected to come into effect on 1 October 2014. The Gambling Commission has opened the application window for those eligible for continuation licences and this will be open until the 16 September 2014 (see "Transitional Arrangements" below).

## WHAT LICENCES WILL I NEED? OPERATING LICENCE

All remote gambling operators need to hold an operating licence in order to provide facilities for gambling in Great Britain legally. The type of operating licence required depends on the type of gambling activity offered.

Operating licences are available for betting, bingo, casino games, gaming machines, gambling software and lotteries. A licence authorising more than one type of activity can be held.

It will be possible for companies within a group to rely on a licence held by a parent company where the subsidiaries can be shown to be acting in the course of the parent's business. The Gambling Commission has issued guidance setting out the circumstances in which it will be likely to find that one company is truly acting in the course of another's business. See [here](#) for Olswang's coverage of this guidance.

## PERSONAL MANAGEMENT LICENCE (“PML”)

In addition to the organisation’s operating licence, any individual responsible for a key management function must apply for a PML. This obligation applies to those performing a key management function; consequently, not all directors will need to hold a Personal Management Licence. Key management functions include:

- overall strategy and delivery of gambling operations
- financial planning, control and budgeting
- marketing and commercial development
- regulatory compliance
- gambling-related IT provision and security

The Gambling Commission is introducing a requirement that the individual responsible for regulatory compliance does not carry out any other management function.

Individuals will not need a PML where there are three or fewer people in relevant management positions within the organisation and those individuals are named on the operating licence (the so-called “Small Scale Operator Exemption”). Those individuals will need to submit the form “Annex A” on which they are required to give details of their finances and background.

## HOW DO I APPLY FOR A LICENCE?

Operating licences and PMLs are applied for using the Gambling Commission’s online system and supplying supporting documents.

## OPERATING LICENCE

The Gambling Commission has introduced the Multi-Jurisdictional Business Form which together with a Great Britain specific Jurisdictional Rider, contain the questions to be answered by remote operating licence applicants (applications themselves will be made through an online system).

The Multi Jurisdictional Business Form and the Jurisdictional Rider are available online: <http://bit.ly/1fxKSjf> and screen shots of the online application are available at <http://bit.ly/1xuacyy>.

The form requires details of the organisation’s structure, ownership, finances, policies, other licences held, compliance record and technical standards, among other matters.

Operators will also be required to identify anyone who holds a 3% or greater share in the organisation and submit form Annex A for every person who has a 10% or greater share if they are not the holder of, or applying for, a Personal Management Licence.

## PML

The standard PML application form is available on the Gambling Commission website: <http://bit.ly/1zqmv1W>. Applicants will need to provide a number of supporting documents, including proof of identity and a DBS check into their criminal record (or overseas police report).

PML applications can be made in advance of the change in law.

## TRANSITIONAL MEASURES

Those operators who currently lawfully advertise to and are active in Great Britain by virtue of holding a licence in an EEA state or a White List jurisdiction will be able to continue to operate provided that they submit an application and pay the relevant fee within the required time frame (regardless of whether the Gambling Commission has determined the application in full before the commencement date of the amended legislation). Those operators will be issued with a continuation licence which will allow them to continue to operate legally without interruption until their application is determined and a standard licence issued or denied. The continuation licence will

only apply to products made available in Great Britain prior to the change in law.

Consideration should be given as to which corporate entity or entities require a Gambling Commission licence and whether each entity will itself qualify for a continuation licence. Continuation rights extend to a wholly owned subsidiary of, or parent company of (where the qualifying entity is that parent company's wholly owned subsidiary), an entity that would itself qualify for continuation rights. It should also be noted that newly incorporated subsidiaries that acquire EEA or White List licences prior to applications being submitted should also be able to qualify for continuation rights.

The Gambling Commission has reduced the number of questions that need to be answered by operators eligible for a continuation licence to those it considers fundamental (these are highlighted in yellow on the Multi Jurisdictional Business Form and Jurisdictional Rider).

## LICENCE ASSESSMENT CRITERIA

When considering whether to grant a licence (whether an operating licence or a PML), the Gambling Commission will assess applications against the following criteria (which apply to the applicant and to persons relevant to the application, such as significant shareholders):

- Identity
- Financial and other circumstances (past and present)
- Honesty and trustworthiness
- Experience, expertise, qualifications and history
- Criminal record

## HOW MUCH WILL THE LICENCE COST?

An application fee and an annual fee are payable to the Gambling Commission. The fee structures are complex, but broadly, the fee payable will

depend on the type of gambling facilities offered and, in most cases, gross gambling yield. The Gambling Commission fees calculator is available here: <http://bit.ly/1c8cltT>.

The application fee should be submitted with the application, the annual licence fee will be due thirty days after the issue of a licence.

## LICENCE CONDITIONS AND CODES OF PRACTICE ("LCCP")

Once licensed, operators will need to comply with the LCCP, which are written and administered by the Gambling Commission.

Attached to licences are the general licence conditions together with any licence conditions specific to operators or to a class of operator. Also attached to the licence are codes of practice which cover the manner in which facilities for gambling are provided. The consolidated LCCP are available here: <http://bit.ly/1jtNDTb>.

## SOFTWARE LICENCES

The Gambling Commission will add a condition to the LCCP that will require Gambling Commission licensees to source their gambling software (computer software used in connection with remote gambling) from businesses that hold Gambling Commission issued software licences. This licence condition will apply from 30 January 2015.

## TESTING

Gambling Commission licensed operators will need to ensure that their software meets the technical requirements set out in the Gambling Act, the LCCP and the technical standards. The Gambling Commission's testing strategy, which sets out the requirements for new games to be introduced to the British market has been updated and now covers the Gambling Commission's approach to the testing of games already made available on the market in Britain by those eligible for continuation rights: <http://bit.ly/1qxDs4W>.

This Olswang Guide was last updated on 29 July 2014. The above is intended as an introduction to gambling licensing in Great Britain and should not be relied upon as legal advice. For more information or advice on gambling licensing in Great Britain contact a member of the **Olswang Gambling Group**.

Berlin	+49 30 700 171 100
Brussels	+32 2 647 4772
London	+44 20 7067 3000
Madrid	+34 91 187 1920
Munich	+49 89 203 031 300
Paris	+33 1 70 91 87 20
Singapore	+65 67 20 82 78
Thames Valley	+44 20 7067 3000

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