

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 28 May 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 in early September 2014. The Gambling Commission has said that it will start to consider applications for continuation licences two months after Royal Assent (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 only 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 by completing a form provided by the Gambling Commission and supplying supporting documents.

OPERATING LICENCE

The Gambling Commission has conducted a review into the application process for remote operating licences. It has introduced the Multi-Jurisdictional Business Form which has been developed by the International Association of Gaming Regulators. This form, together with a Great Britain specific Jurisdictional Rider, is to be used for remote operating licence applications under the amended legislation. The Multi Jurisdictional Business Form and the Jurisdictional Rider are available online: <http://bit.ly/1a2s20U> (although applicants for continuation licences should note that they are only required to answer a reduced list of questions).

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/1IJcMNI>. 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. The Gambling Commission has stated that Operators can expect the transition of arrangements to enable continuation rights to be extended to a wholly owned subsidiary of, or parent company of, an entity that would itself qualify for continuation rights. The Gambling Commission is expected to provide further details in respect of this. 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. The Gambling Commission has stated that in some cases group companies will be able to rely on a parent company licence but has yet to issue guidance as to how much of the software supply it expects to license. 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 are set out here: <http://bit.ly/1cXOa13>.

The Gambling Commission is yet to set out its proposals for transferring the existing games testing approvals for those games already available to British consumers. It has, however, stated that it has no desire to unnecessarily duplicate testing already conducted on such games.

This Olswang Guide was last updated on 28 May 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**.

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