



department for
**culture, media
and sport**

GAMBLING ACT 2005 “WHITE-LISTING”

PART 16 - ADVERTISING: FOREIGN GAMBLING

SECTION 331 (4) – POWER TO SPECIFY A COUNTRY OR PLACE
TO BE TREATED AS IF IT WERE AN EEA STATE

CRITERIA TO BE APPLIED IN RESPECT OF THIS PROVISION –
GUIDANCE DOCUMENT

Department for Culture, Media and Sport

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1. Introduction

Statement of Purpose

1.1 This guidance document describes the process, and sets out the criteria, which the Secretary of State will employ when considering whether to permit gambling operators based in a country, territory or jurisdiction outside the EEA to advertise their gambling activities in the United Kingdom, from September 2007. This process has also been referred to as 'white-listing' but that is an informal term which is not recognised in the relevant legislation and is not, therefore, used within this guidance document.

Legislative background

1.2 The provisions of the Gambling Act 2005 (the 'Act') are expected to come fully into force, with effect from 1 September 2007. All of the Act's provisions apply to Great Britain (England, Wales and Scotland). Only the provisions in sections 43, 331 and 340 (including the related entry in Schedule 17) apply to the United Kingdom (Great Britain and Northern Ireland).

1.3 The provisions concerning advertising remote and non-remote gambling under the new licensing regime are contained in Part 16 of the Act. All guidance concerning the advertising in the UK of gambling activities should be read in conjunction with the relevant guidance published by the Committee of Advertising Practice (CAP), the Broadcast Committee of Advertising Practice (BCAP), OFCOM and the Gambling Commission.

1.4 As stated in paragraph 1.1 above, this document sets out the criteria which the Secretary of State will employ to specify which non-EEA countries, territories or jurisdictions should be treated as if they were an EEA State, and therefore exempt from the provisions in section 331 which forbid the advertising, in the UK, of gambling based in a non-EEA State. It also describes the process which the Secretary of State intends to employ in her deliberations.

1.5 Section 331 of the Act sets out restrictions on the advertisement of foreign gambling in the UK. From September 2007, countries, territories or jurisdictions that are situated outside the EEA and Gibraltar, will not be permitted to advertise foreign gambling, within the definition set out in section 331(2) of the Act, unless they can demonstrate that they have a satisfactory regulatory regime in place.

1.6 A country, territory or jurisdiction (from hereon referred to as a jurisdiction), which is situated outside the EEA and Gibraltar, which has the right to legislate for and regulate gambling activities based in, or offered from within, its geographical borders; and, is able to show that a satisfactory regulatory regime exists and operates within its jurisdiction, may make representations to the Secretary of State, and be considered for a special 'exemption' under section 331(4) of the Act. This 'exemption' will permit a gambling operator based in, and regulated by, the jurisdiction to advertise in the UK as if he were based in an EEA state or Gibraltar.

Making representations

1.7 The guidance in this document is intended to assist a jurisdiction when submitting representations to the Secretary of State for consideration under section

331(4). Such representations will be considered only if they are submitted by the Government which holds the relevant legislative and/or regulatory authority within a jurisdiction. Representations made by other persons or organisations will be considered only in the context of additional or supporting evidence and will not, otherwise, be considered.

1.8 The use of the word exemption in paragraph 1.7 above and elsewhere in this guidance document should not be inferred as meaning an exemption from stringent regulatory control. It is UK Government policy that any jurisdiction making representations will be required to demonstrate that its gambling licensees operate within a robust regulatory environment and that its regulator(s) is(are) required to operate continual licensing and regulatory enforcement of gambling operations within that jurisdiction. Furthermore, all gambling operators permitted to advertise their gambling activities in the UK will be subject to strict rules regarding the form and content of advertising in the UK, as well as to the robust gambling regulation in their home jurisdiction.

1.9 A jurisdiction may make representations to the Secretary of State in respect of the terrestrial (premises-based) gambling it regulates; the remote gambling it regulates; or both. In any event, the Secretary of State will require the jurisdiction to set out very clearly which gambling activities it licenses that it proposes should be permitted to advertise in the UK. A jurisdiction may make representations in respect of all the gambling activities which it licenses (except state, national or other lotteries – see paragraph 1.10), but will be required to provide full and detailed information about the regulatory nature and compliance and enforcement systems in place for each gambling activity. Information about enforcement systems should include details about the manner in which technical standards and requirements are effectively enforced, including details of testing procedures.

1.10 The advertising of state, national or other lotteries does not come within the scope of this part of the Act and section 331(4) does not, therefore, apply to the advertising of any lottery. If a jurisdiction makes representations in respect of a lottery the Secretary of State will not be permitted to consider those representations.

1.11 As a first step, when considering the robustness of its regulatory regime, a jurisdiction wishing to make representations to the Secretary of State should consider how its jurisdiction would meet the licensing objectives of the Act (set out in paragraph 2.1) and whether the regulatory obligations it places on its gambling operators meet the standards that will be required of the gambling operators to be licensed by the Gambling Commission under the Act.

1.12 Therefore, a jurisdiction will need to consider the application of our gambling licensing objectives (set out in paragraph 2.1) to the licensing regime(s) it applies to each and every category of commercial gambling for which it wishes to make representations, and compare how it would achieve those objectives for those gambling activities through the measures and protections within its regulatory and licensing regime(s).

1.13 In practice, in Britain, the Gambling Commission will attach conditions to operating and personal licences which will specify how British gambling operators can use their facilities for gambling. In addition, the Secretary of State may impose additional conditions on those licence holders. The Gambling Commission will also

issue codes of practice about the conduct of gambling and its social impact to which gambling operators will also be subject and will provide guidance to local licensing authorities about their licensing obligations, including the licence conditions they may apply to gambling operators premises licences.

1.14 On 27 November 2006, the Gambling Commission published the licence conditions and codes of practice which will form the backbone of its licensing regime, that is, the regulatory obligations which will be placed on all British gambling operators, terrestrial or remote, from September 2007. A supplement on financial requirements was published by the Commission at the end of December. Any breaches by a licensee may lead to heavy penalties, including stiff fines and, potentially, loss of licence or criminal prosecution.

1.15 We do not propose to prescribe the conditions which a jurisdiction must apply to its licensing regime in order to qualify for consideration under section 331(4). Neither do we propose to demand that a jurisdiction's regime must mirror the licensing regime which will be in operation in Britain from September 2007 in order to qualify. However, a jurisdiction wishing to make representations should refer to the relevant documentation on the Gambling Commission's website <http://www.gamblingcommission.gov.uk> and set out in writing how the issues which the Gambling Commission has addressed through its licensing regime are addressed with substantially similar intention and effect in the jurisdiction's regulatory regime and through the obligations placed on the operators it licenses.

1.16 Furthermore, it is vital that the Secretary of State may be assured that a jurisdiction has the capacity; technical and regulatory ability; and political impetus necessary, to enforce its regulation. The Secretary of State will be seeking evidence and firm commitment in this regard and a jurisdiction wishing to make representations should refer to the licensing, compliance and enforcement consultation documents on the Gambling Commission's website <http://www.gamblingcommission.gov.uk> for guidance about the sort of evidence we are expecting to receive.

1.17 In short, we expect that all those jurisdictions whose representations to the Secretary of State under section 331(4) are successful, to have embedded within their licensing regimes the values which underpin our licensing regime, that is to say, that they too regulate gambling in order to protect children and vulnerable people from being harmed or exploited; to keep crime out; and to ensure that gambling is conducted fairly, and that they have the facilities and resources in place to ensure compliance and enforcement with those values and the regulatory regime in operation.

1.18 There is no formal application form but a jurisdiction making representations to the Secretary of State is requested to state clearly which categories of gambling activities its representations concern and to formulate its representations around the three licensing objectives (set out in paragraph 2.1) for each of those categories; to consider the Gambling Commission's codes of practice and licence conditions and the issues they address for each of those categories (or individual activities) and set out how its regime addresses those issues for each of those categories (or individual activities); and to provide full details of how it enforces the licensing regime for each of those categories (or individual activities).

1.19 In addition, jurisdictions need to be aware that, in addition to UK law and regulations, there are a number of EU-wide regulations and policies with which British-based gambling operators must comply, such as on money-laundering. A jurisdiction making representations must confirm that its gambling regime and gambling operators are subject to rules on money-laundering, specifically, and financial probity, in general, which are no less stringent.

1.20 In developing its representations, a jurisdiction may also find it useful to consider the policy documents which Government used to formulate the new legislative framework and licensing arrangements (see paragraph 11).

1.21 Jurisdictions must also demonstrate that they adhere to fair tax principles, in particular, they will be judged on openness, equal availability and equal treatment.

1.22 All representations to the Secretary of State must be in English.

1.23 Ideally, we would like to receive all representations via email and for those representations, which must include an executive summary; information about the nature of the relevant regulatory regime(s) in the jurisdiction; contact details; and relevant supporting documentation, to not exceed a total of 150 pages.

1.24 As the UK Government is subject to 'Freedom of Information' legislation, it is vital that all commercially sensitive or otherwise sensitive information is included only in annexes and clearly labelled as such, with non-sensitive references to the sensitive information in the main text only (solely for the purpose of directing the reader to where the sensitive information can be found in the annexes).

1.25 Please note that all information in responses, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000. Confidentiality cannot be guaranteed, and will only be protected if considered appropriate under the legislation.

1.26 Lastly, jurisdictions should note that the Secretary of State reserves the right to remove a jurisdiction from any list of states or territories permitted to be treated as a EEA state for the purposes of section 331(2) of the Act, under the provision of section 331(4) if, at any stage, there is concern that the jurisdiction no longer satisfies the criteria set out in this document.

1.27 In the paragraphs which follow this, we aim to explain, in greater detail, how the Act will apply to British premises-based gambling operators and British-based remote gambling operators from September 2007; and to explain the role of the Gambling Commission, which will regulate all British-based operators, except the National Lottery and spread betting. The purpose of this is to give a clearer indication about the issues which a jurisdiction must address in its representations but must be read in conjunction with the Gambling Commission's Licence Conditions and Codes of Practice document and its Licensing, Compliance and Enforcement consultation document and with the Act.

1.28 It may be helpful for a jurisdiction to set out its representations in much the same way as the Gambling Commission has set out the issues, and methods to address those issues, in these documents (see paragraph 1.27). However, we do not propose to prescribe this or any other layout.

MEETING THE UK GOVERNMENT'S REGULATORY REQUIREMENTS

2 Key regulatory concepts

2.1 The licensing and regulatory objectives informing the jurisdiction's gambling regulatory regime, should, in practice, broadly, achieve the objectives under which the British gambling regulatory regime will operate, which are stated in section 1 of the Act, namely:

- To prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- To ensure that gambling is conducted in a fair and open way; and
- To protect children and other vulnerable persons from being harmed or exploited by gambling.

3 Keeping out crime

3.1 The UK Government has stated that 'one of the prime objectives of gambling regulation must be to combat criminality'. It has further commented that, 'this means having appropriate barriers to entry for those wanting to join the industry, and having effective mechanisms for policing new and existing gambling operators'.

3.2 Combating criminality is therefore a key component of the UK Government's policy towards the effective regulation of the gambling industry, protecting and regulating both operators and participants alike. To achieve this for our jurisdiction, we have established a thorough and robust licensing system, enforced by a tough regulatory body (the Gambling Commission), which will be expected to ensure that the gambling operators it licenses comply with high standards of probity and integrity.

3.3 The regulator has a wide range of enforcement and inspection powers, backed-up by 'statutory gateways', which are mechanisms which facilitate the transfer of information between the Gambling Commission and other organisations. These include law enforcement and financial regulatory bodies such as the police, National Crime Squad, National Criminal Intelligence Service, Serious Fraud Office and the Financial Services Authority.

3.4 In the UK, all gambling businesses are also required by law to comply with provisions, concerning the prevention and detection of money laundering, in the Proceeds of Crime Act 2002 and the Terrorism Act 2000. Casino operators (whether offering terrestrial (premises-based) gambling or remote gambling) are also subject to additional controls arising from the provisions of the Money Laundering Regulations 2003.

3.5 Other notable criminal prevention measures in the Act include the facility for the Gambling Commission to void bets (section 336); and an offence of cheating (section 42), designed to protect consumers, operators and the betting events or products from unscrupulous persons attempting to benefit from corrupting those events or products.

3.6 The UK Government believes that the Act provides the powers required to combat criminality, through the detection and prosecution of any person attempting to use gambling to conduct a criminal activity, such as money laundering, within its licensing jurisdiction.

3.7 A jurisdiction making representations will be required to demonstrate that it too has appropriate mechanisms in place to combat any criminality which may be linked to gambling, and that those mechanisms will also permit and facilitate 'policing' and prosecution of illegal gambling activities.

4 Ensuring that gambling is conducted in a fair and open way

4.1 Consumers should be confident that a gambling service or product is operated in a fair and transparent manner. The UK Government believes that customers should be able to gamble, fully aware of the terms under which they participate, and confident in the financial reliability and probity of operators. Effective and transparent means of money transfer should be in operation, notably secure procedures for the acceptance of stakes and the prompt payment of winnings. The rules, or odds, for each type of gambling activity will, undoubtedly, vary depending upon the product, as it may between gambling operators. However, the terms under which gambling is offered should be readily available to customers and easy for them to access. It should also be written in simple, easy to understand, language.

4.2 The Act (section 335) makes gambling debts legally enforceable in Great Britain and the terms under which operators deal with customers will become contractual as soon as the relevant provisions of the Act have been implemented (currently planned for September 2007).

4.3 In Great Britain, licensed operators will be expected to make adequate provision for the handling of both complaints and dispute resolution. The dispute resolution process must include opportunity for recourse to an independent body or person. Licensed operators will be required, as part of their licence conditions, to maintain records of both complaints and disputes. The records must be available to the Gambling Commission.

4.4 A jurisdiction making representations will be required to demonstrate that it has in place sufficient regulatory controls to ensure that customers of those gambling products, for which it wishes to make representations, including those customers based outside the jurisdiction, will:

- Have ready access to the rules under which the gambling is offered and that those rules which will be available in the English language;
- May claim any prizes or winnings within a reasonable period; and
- Have ready access to dispute resolution and information about how to resolve any dispute with a gambling operator, including to the regulator, if necessary.

4.5 Jurisdictions should take note that the Gambling Commission may impose additional licence conditions on the gambling operators it licenses where it feels that there are sufficient concerns which would warrant the imposition of such conditions. The Secretary of State has similar powers. We would expect a jurisdiction making representations to provide evidence that it too has a regulatory regime which has sufficient mechanisms in place to respond to changing priorities and needs, as these arise.

5 Protection of children and the vulnerable

5.1 The UK Government places great emphasis on licensed gambling operators conducting their business in a socially responsible way, in particular, with regard to children and vulnerable persons for which gambling presents particular risks that other forms of leisure may not.

5.2 Consequently, the new regulatory controls we have introduced for Great Britain are based around a set of statutory safeguards governing specific gambling activities, and - running alongside them – a commitment by all licensed gambling operators to conduct their business in a way which is socially responsible. The provisions of the Act also mean that licensed operators will be committing an offence if they invite or permit a child or young person to enter adult only premises or to participate in activities which are not permitted for that age group (Part 4 of the Act refers).

5.3 Additionally, the Act (section 83) imposes a condition that prevents operators from profiting from underage gambling. Operators who become aware that a child or young person is, or has used, their facilities for gambling:

- Must return any money paid in respect of the use of those facilities (whether by way of fee, stake or otherwise) by the child or young person as soon as is reasonably practicable; and
- May not give a prize to the child or young person.

5.4 An operator licensed by the Gambling Commission will be expected to put in place effective and robust protective measures to control entry to play, including seeking proof of age, where appropriate. Operators who breach their obligations could face criminal sanctions and wide-ranging licensing penalties, including the loss of licence and the right to operate.

5.5 British-based online gambling operators will be expected to put in place payment systems and other controls to prevent children using online gambling sites. Certain forms of payment may be deemed as potentially 'at risk', for example, due to their availability to children, and may, therefore, require greater age checks to be carried out on those customers before access to gambling facilities are permitted.

5.6 The Act aims to give adults the right to make informed choices about their gambling activities where socially responsible measures can be put in place to diminish any adverse effects. The licensing regime is sufficiently flexible to allow the Government and Gambling Commission to readily adapt and amend licence conditions and codes of practice to meet the challenges raised by changing technologies, new gambling products and developments in payment methods.

5.7 Nevertheless, even with these extensive safeguards, the Government recognises that access to any gambling facilities – legal or illegal; commercial or private - may produce instances of problem gambling. We are addressing this through a number of measures, such as a reserve power in the Act compelling British based operators to pay an annual levy, in addition to taxation, which the Secretary of State will introduce if we consider that the industry is not sufficiently fulfilling its obligations to demonstrate social responsibility.

5.8 It should, therefore, be very clear that positive socially responsible practices, notably regarding children and other vulnerable people, including those at risk of

becoming problem gamblers, are a critical part of meeting the Government's regulatory aims.

5.9 A jurisdiction making representations will need to demonstrate that a similar importance and commitment is placed on social responsibility within its jurisdiction; backed up by a sufficiently tough regulatory regime. In effect, this means that jurisdictions will be expected to require licence holders to contribute to research, to education about the risks of gambling and to the treatment of problem gamblers. Furthermore, we will be looking for evidence that there is a facility within a jurisdiction's regulation to promptly, and effectively, put measures in place to address developments in technology or products linked to the gambling activities for which the jurisdiction wishes to make representations..

6 Independent regulatory body with inspection and enforcement powers

6.1 The Government has established a central body for the regulation of the British-based gambling industry, covering both remote and non-remote products and operations (the only exceptions being the National Lottery and spread betting, which have their own statutorily competent regulatory bodies, specifically the National Lottery Commission and the Financial Services Authority). This provides a single system of licensing for commercial gambling in Britain and ensures that entry and compliance controls can be applied consistently and proportionately across all sectors of the industry.

6.2 In addition to its licensing role, the Gambling Commission also has responsibility for investigating and taking action against illegal gambling which is taking place within Great Britain. The Act provides the Gambling Commission with wide ranging powers enabling it to ensure compliance and to investigate and prosecute offences, including powers to access licensed and unlicensed premises, and premises used in conjunction with gambling (such as a gambling operator's head office); and powers to access key gambling equipment. In exercising this function in an effective and proactive manner, the Gambling Commission will be able to work with and call upon other regulatory and investigative bodies, including local licensing authorities, the police and Her Majesty's Revenue and Customs.

6.3 The Act (section 30) makes statutory provision for the exchange of information between the Gambling Commission and other regulatory and investigative bodies. These 'statutory gateways' facilitate communication and cooperation between the Commission and these other bodies, most notably law enforcement agencies.

6.4 Licensed operators are also required to provide the Gambling Commission with information about the licensed activities (section 122). In addition, a licensed operator may be required to pass on information relating to a breach of a sporting rule (section 88).

6.5 The Gambling Commission has been provided with sufficient powers to fully and properly enforce its regulatory role and to fulfil the statutory requirement to pursue the Gambling Act's three key licensing objectives (as set out in paragraph 2.1).

6.6 A jurisdiction making representations will need to provide evidence that its regulator (or an appropriate investigative body) has sufficient power and mechanisms in place to ensure compliance with its regulatory regime and to investigate and, if appropriate, prosecute breaches in compliance, and that it is properly resourced to carry out those functions. We shall also be seeking evidence of information gathering and dissemination systems, including the capability and willingness to cooperate and work with international regulatory and investigative agencies, such as Interpol, and other national regulators, including the Gambling Commission.

6.7 A jurisdiction making representations must be prepared to demonstrate, also, that its regulator's internal systems and decision making processes are subject to public accountability and are not subject to competing non-regulatory Government priorities.

7 Licensing (and codes of practice) arrangements

7.1 In Great Britain, under the Act, the regulatory regime, which will be in operation from 1 September 2007, will take the form of operating licences issued by the Gambling Commission permitting the holders to offer specific gambling activities and setting conditions on the way in which they offer those specified gambling activities. The operating licences, and the obligations imposed on the gambling operators holding them, will be tailored in order to meet the specific regulatory challenges posed by each specified gambling activity. In addition, premises-based British gambling operations will be subject to premises licensing arrangements with additional conditions setting out how the gambling operators may use their premises for gambling. Lastly, all gambling operators may find that key personnel within their organisations are required to obtain personal licences from the Gambling Commission.

7.2 This licensing regime is explained in more detail below (paragraphs 7.6 – 7.30), but for more detailed information a jurisdiction should refer to the Gambling Commission's Licence Conditions and Codes of Practice document, which is available on the Gambling Commission's website, and the Act.

7.3 The Gambling Commission will issue operating and personal licences (under parts 5 and 6 of the Act). Premises licences (under part 8 of the Act) will be issued by the relevant licensing authorities, although the Gambling Commission will provide guidance to those licensing authorities, on the manner in which and the principles to be applied in exercising their functions under the Act, in order to ensure fairness and consistency throughout this jurisdiction.

7.4 The Act also permits the Government to impose specific conditions for operating licences (section 78) and for premises licences (section 167), in addition to those imposed on the gambling operator by the Gambling Commission and the licensing authority. The Act sets out the broad parameters for who requires and who may obtain a personal licence, and the Government has powers to amend those parameters

7.5 The UK Government is not expecting a jurisdiction making representations to have in place a licensing regime which is identical to this one. Details about the licensing system, which will operate in Great Britain under the Act, (set out in paragraphs 7.6 – 7.30), are provided for information and guidance. However, as stated throughout, the Secretary of State will wish to see how a jurisdiction has addressed each of the issues identified, for the gambling activities for which it wishes to make representations, within its regulatory regime.

Gambling Commission Licences

7.6 The Gambling Commission will operate controls on entry to the British gambling industry, issuing operating and personal licences on the basis of an assessment of honesty, competence and, in the case of operators, financial means.

7.7 This statement of approach has been statutorily underlined by the provisions of section 70 of the Act. The licensing process is a key stage in ensuring that those permitted to operate gambling facilities in this jurisdiction are of the utmost probity and integrity. They should also be able to demonstrate an appropriate level of

competence and suitability to run such operations and that adequate financial resources are available.

7.8 This is complemented by the information sharing facilities between the Gambling Commission and other organisations, notably law enforcement agencies; and the Gambling Commission's information enforcement powers over licensed operators (see paragraph 6).

7.9 The licensing process should therefore be a tough and thorough procedure, acting as a significant deterrent to crime (see paragraph 3), ensuring that the gambling activity is conducted fairly (see paragraph 4), and that children and other vulnerable people are sufficiently protected (see paragraph 5). It must also ensure that those responsible for providing gambling have been subject to thorough background checks to ensure their personal and financial probity.

Operating Licences

7.10 The Act provides that the Gambling Commission shall have regard to the suitability of a gambling operator to operate and, in assessing suitability, may consider the gambling operator's integrity, competence, financial and other circumstances. In awarding licences, the Gambling Commission can (and in some cases must) attach conditions to those licences. The Gambling Commission's powers to attach conditions to licences are wide (sections 75 and 77 of the Act), essentially permitting the Gambling Commission to attach any condition that comes within the scope of the Gambling Commission's remit to control the way in which gambling may be offered. In addition, the Gambling Commission will issue codes of practice about the manner in which facilities for gambling are provided, again, with wide scope. This means that the Gambling Commission has very wide scope to influence or determine the way in which licensed operators conduct their affairs.

7.11 Operating licences, issued by the Gambling Commission, will be the main form of authorisation for providing facilities for commercial gambling in Great Britain. Where authority to provide facilities for gambling has been granted, it will be subject to varying degrees of regulation depending on: the type of gambling; the means by which the gambling is conducted; and the people by whom, and to whom, the gambling is offered.

7.12 To cater for the differing regulatory requirements that may be necessary for each form of gambling activity. There are ten different kinds of operating licence (listed in section 65 of the Act), each of which will have specific licence conditions:

- a) a casino operating licence;
- b) a bingo operating licence;
- c) a general betting operating licence;
- d) a pool betting operating licence;
- e) a betting intermediary operating licence;
- f) a gaming machine general operating licence for an adult gaming centre;
- g) a gaming machine general operating licence for a family entertainment centre;
- h) a gaming machine technical licence;
- i) a gambling software operating licence; and
- j) a lottery operating licence.

7.13 Facilities for gambling can be provided remotely (i.e. by technology which means the player is not in the same place as the person offering the facilities), or non-remotely (i.e. face to face on premises). 'Remote gambling' means gambling in which persons participate by the use of remote communication (this includes (a) the internet, (b) the telephone, (c) television, (d) radio or (e) any other kind of electronic or other technology for facilitating communication). For each of the ten kinds of operating licence, there are two basic types: a remote operating licence which authorises, for example, the provision of particular facilities by means of the internet; and a non-remote licence, which authorises the same facilities to be provided from premises. An operating licence must either be remote or non-remote but cannot be both.

7.14 In addition, the Act provides for premises to be licensed by licensing authorities (local authorities in England and Wales, and licensing boards in Scotland) for the provision of gambling facilities. It also provides for personal licences to be issued by the Gambling Commission for certain personnel within a gambling operator.

Personal Licences

7.15 The Act provides for two types of personal licences, for:

- management functions (section 80(5)); and
- operational functions (section 80(6)).

7.16 The Act requires all licensed operators (except those determined as small scale operators) to have at least one personal management licence holder for each specified management office and may also, in addition, impose personal licences for certain operational functions.

7.17 Personal licences do not remove the overall responsibility from the operator but reinforce the importance of an individual's responsibility, in enforcing the licensing objectives. This individual responsibility will include ensuring that any and all necessary training is undertaken, so that they are equipped with the skills to enable them to meet the regulatory requirements.

7.18 Those individuals who may be required to hold a personal management licence include staff at the following levels: managing director/chief executive; finance director; compliance director; and marketing director or equivalent positions. Regional, area, sector or site managers may also require a personal management licence.

7.19 Personal licences for operational functions may also be required in circumstances where an employee of an operator may have the potential to manipulate the outcome of a gambling product for their own (or others') advantage. Individuals who may be required to hold a licence of this nature include: bingo club managers; casino executives and managers; and casino gaming staff (dealers, cashiers, inspectors, security staff and supervisors).

7.20 As with the operating licence regime, the Gambling Commission will need to be satisfied that anyone obtaining a personal licence is of sufficient integrity, competence, financial probity and fulfils any other requirements it deems relevant.

Premises Licences

7.21 Part 8 of the Act describes the regime for the licensing of premises for gambling. This licensing role is the responsibility of licensing authorities (local authorities in England and Wales, and licensing boards in Scotland).

7.22 Premises licences may authorise the provision of gambling facilities on:

- casino premises;
- bingo premises;
- betting premises (including horseracing and greyhound racing tracks, and betting intermediaries);
- adult gaming centres; and
- family entertainment centres.

7.23 Applicants for premises licences will be required to hold an operating licence permitting the relevant gambling activity, (except in the case of operators of racing tracks or licensed sports stadia) and will, therefore, need to have satisfactorily demonstrated that they fulfil those stringent operating licensing requirements in addition to meeting premises licensing requirements.

7.24 Conditions on a premises licence may be set by the licensing authority and also by the Government. However, each licensing authority will be required to conduct its licensing functions with reference to guidance provided by the Gambling Commission (section 153 of the Act), in order to ensure fairness and consistency throughout the jurisdiction.

7.25 The Gambling Commission will issue guidance on how the inspection regime, in Great Britain, will work. The purpose of the inspection regime is to ensure that licensed activities are being conducted fairly; and for investigating and taking action against illegal gambling. Inspections will be conducted in proportion to the assessed risk attached to each type of gambling product. The Act has provided the Gambling Commission, and other regulatory organisations, with wide-ranging powers to inspect licensed and unlicensed premises, and equipment.

7.26 Wholly remote operators, such as those operators which offer only online gambling, will not require a premises licence, but must comply fully with the personal and operating licensing regimes.

Gaming Machine Permits (and other permissions)

7.27 The Act also includes a system of permits which will be granted by licensing authorities (local authorities in England and Wales, and licensing boards in Scotland). Permits are required when premises provide a gambling facility but either the stakes or prizes involved in the gambling activity are very low, or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines (slot machines) in a specific premises and are subject to the same values which underpin the licensing regime: to protect children and vulnerable people from being harmed or exploited by gambling; to keep crime out; and to ensure that gambling is conducted fairly.

Register of Licence Holders

7.28 The Gambling Commission will hold and maintain a register of all the holders of the operating and personal licences it has issued, which will be accessible to the public.

7.29 This register will contain information which is not commercially sensitive, such as: the company name; address; licence number; date of issue; any licensing restrictions; and any sanctions that have been imposed. (In the interests of privacy, the personal addresses of personal licensees will not be included in the register.)

7.30 Each local licensing authority will also be required to maintain a register of the premises licences it has issued and for that information to be publicly available.

7.31 To reiterate, the Secretary of State does not expect applicant jurisdictions to mirror our licensing regime but she does expect a jurisdiction making representations to demonstrate that its licensing regime(s) effectively addresses each of the issues to be covered in Britain by the operating, personal and premises licensing regimes.

8 Additional Requirements

Fair Tax Criteria

8.1 The UK Government recognises that national governments and parliaments must be free to set their own tax structures and rates, nevertheless we want to ensure that jurisdictions outside the EEA wishing to advertise their gambling services in the UK adhere to fair tax principles

8.2 These tax criteria only apply to the jurisdiction's gambling specific tax regimes.

8.3 The three criteria against a jurisdiction's gambling tax regime will be judged are:

Openness

8.4 The tax base and rates of any gambling taxes should be clear, should be properly enforced and be applied to all operators.

Equal availability

8.5 The tax regime should be available to all operators whether owned domestically or by overseas interests and should be available to all operators who wish to be based in that jurisdiction. In particular there should not be especial low or "designer" tax rates available only to selected foreign operators.

Equal Treatment

8.6 Tax rates should be applied equally to gambling services supplied for both domestic and overseas consumption, in particular there should not be discounted rates of duty for export services.

9. Consideration of representations

9.1 Jurisdictions making representations should email those representations to the Secretary of State at whitelisting@culture.gsi.gov.uk no later than 17:00 GMT on 2 April 2007.

9.2 It is vital that any jurisdiction that wishes to be treated as an EEA-state under the advertising provisions of section 331 of the Act, from the time at which those provisions come into effect (1 September 2007), ensures that the Secretary of State is in receipt of their completed representations no later than the date set out in paragraph 9.1.

9.3 Any representations received after that date; or any applications that were received on time but are substantially incomplete, are unlikely to be assessed in time to be included on the list of jurisdictions that will be treated as EEA-states from 1 September 2007.

9.4 The Secretary of State may request any other information or evidence deemed necessary to consider a jurisdiction's representation(s). Failure to comply with such a request, and within a reasonable time, may lead the Secretary of State to view the representation(s) as insufficient to meet the criteria or to consider the representation(s) to be void on the grounds that the jurisdiction in question has failed to comply with the request.

9.5 Please note that all information in responses, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000. Confidentiality cannot be guaranteed, and will only be protected if considered appropriate under the legislation.

9.6 When the Secretary of State has decided what country or place will be specified under s331(4), she will provide for this in Regulations that are intended to come into force on 1 September 2007.

9.9 In the event that a jurisdiction is permitted to be treated as an EEA-state for the purposes of section 331(2), the Secretary of State will require a list of all the gambling operators legally licensed within that jurisdiction, which offer the gambling activity or activities for which the provision applies, and will require to be informed about any changes to that list for the full period of time that the jurisdiction enjoys this status.

9.10 For further information, please contact Moira Redmond in the Department for Culture, Media and Sport at:

Email: moira.redmond@culture.gsi.gov.uk
Tel: +44 20 7211 6483
Postal address: Moira Redmond
Gambling and National Lottery Licensing Division
Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH
United Kingdom

10 A negative decision

10.1 There is no formal appeals procedure and the Secretary of State's decision whether or not to recommend to Parliament that a jurisdiction should be permitted to be treated as an EEA-state for the purposes of section 331(2), under the provision of section 331(4), and for which gambling activities those provisions apply, is final.

10.2 Jurisdictions wishing to respond to a negative decision may do so, and the Secretary of State will consider new information, if such is available. However, jurisdictions will need to note that the deadline constraints listed in the previous chapter will still apply.

11 Information links

Organisations

Department for Culture, Media and Sport (DCMS)
<http://www.culture.gov.uk>

Gambling Commission
<http://www.gamblingcommission.gov.uk>

Responsibility in Gambling Trust (RIGT)
<http://www.rigt.org.uk>

Committee on Advertising Practice (CAP)
<http://www.cap.org.uk/cap/>

Broadcast Committee on Advertising Practice (BCAP)
http://www.cap.org.uk/cap/about/cap_broadcast/

Advertising Standards Authority (ASA)
<http://www.asa.org.uk/asa/>

Ofcom
<http://www.ofcom.org.uk/>

HM Treasury
<http://www.hm-treasury.gov.uk/>

Documents

Gambling Review Report (published in July 2001)
http://www.culture.gov.uk/Reference_library/Publications/archive_2001/gamb_rev_report.htm

A Safe Bet for Success (published in March 2002)
http://www.culture.gov.uk/Reference_library/Publications/archive_2002/safe_bet_for_success.htm

Gambling Act 2005
<http://www.opsi.gov.uk/ACTS/acts2005/20050019.htm>

Gambling Commission's Licence Conditions and Codes of Practice
<http://www.gamblingcommission.gov.uk/Client/detail.asp?ContentId=103>

Gambling Commission's Licensing, Compliance and Enforcement
<http://www.gamblingcommission.gov.uk/Client/detail.asp?ContentId=77>
http://www.gamblingcommission.gov.uk/client/news/pressrelease_detail.asp?id=15

Committee on Advertising Practice and Broadcast Committee on Advertising Practice – Consultation on Proposed Rules on Broadcast and Non-Broadcast Gambling Advertising (consultation closed)
http://www.cap.org.uk/cap/Consultations/closed/gambling_consultation/gambling_consultation.htm

Gambling Commission Consultation on Gambling Advertisements and Impact on Responsible Gambling
<http://www.gamblingcommission.gov.uk/UploadDocs/Contents/Documents/Advertising%20impact%20on%20responsible%20gambling.pdf>