

DCMS Announcement	1
Contact Details	1
Application Requirements	2
Compliance Requirements	3

New UK Licence Requirements

The Government has today released a consultation document on the regulatory future of remote gambling in Great Britain. The Government's preferred option is to introduce a statutory requirement for online gambling operators licensed within the EEA, Gibraltar and white listed jurisdictions to obtain a licence from the UK Gambling Commission if they wish to transact with British consumers and/or advertise to the UK. A 12 week consultation period begins today but, in view of the terms in which the consultation is drafted, we believe it is almost certain that the Government's final decision will be to introduce the proposed UK licence requirement.

In relation to the white list, the Government's preferred option is to develop a more streamlined process for inclusion of new jurisdictions onto the list. Operators in white listed jurisdictions would, however, still be required to obtain a UK licence in addition to their existing licence. We will be preparing a more detailed analysis of the consultation document and its implications, including the impact on white listed jurisdictions and their licensees, for circulation shortly.

Our advice to overseas-licensed operators currently targeting the UK market is that they should proceed on the basis that a licence will be required. A key question these operators will be asking themselves is how soon the requirement will come into force. With the consultation period ending on 18 June 2010, followed by changes to the primary legislation, we believe the new licence requirements are unlikely to come into force until next year.

However, obtaining a UK licence can be a lengthy process in terms of the preparatory work that must be done as well as the time taken by the Gambling Commission to process the application. Once a deadline for overseas operators to obtain a licence has been set, large numbers of operators will inevitably be rushing to submit their applications.

At this stage, it may therefore be prudent to begin considering the information and documentation that must be submitted with a UK licence application and the compliance requirements for a UK licensee. We hope that the notes on the following pages will be of assistance to you in this regard.

We have unparalleled experience of making licence applications in the UK for both land-based and online operators in the betting, bingo and casino industries. If you have any questions about the process or requirements we would be delighted to assist and our contact details can be found below.

Julian Harris and John Hagan will be hosting the UK round table session at the World Gambling Briefing in Malta on Thursday 25 March, at which this subject will be discussed in further detail.

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UK Operating Licence: Key Application Requirements

CORPORATE STRUCTURE

Applicants must provide a full corporate structure chart, identifying all those companies and individuals with a direct or indirect shareholding in the applicant company of 3% or more. Any individuals with a direct or indirect shareholding over 10% are normally required to complete an individual application (“Annex A”), providing details including their personal circumstances, finances and any convictions and completing a criminal records check.

KEY INDIVIDUALS

Those fulfilling key roles within the company, such as responsibility for compliance, gambling related IT and marketing, are required to apply for a Personal Management Licence. Similar information is required as for the Annex A application set out above.

LICENSING OBJECTIVES

Applicants must set out internal policies to ensure the promotion of the ‘licensing objectives’. These are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

Applicants must also set out how they will ensure the promotion of social responsibility in gambling, for example making a contribution to an organisation such as GamCare or the Responsibility in Gambling Trust.

BUSINESS PLAN

Applicants must provide a detailed business plan, including management structure, objectives, audited accounts (if available) and financial projections for the business together with underlying assumptions.

TESTING

Gambling software must be tested in accordance with the Gambling Commission’s testing strategy and technical requirements. Software may be tested by a third party test house or, in some circumstances, internally.

FEES

Licence fees vary depending on the licensed activities and turnover. By way of example (figures are approximate), a remote casino licence will be subject to an application fee of between £3,000 and £64,000 and an annual fee of between £3,000 and £155,000. A remote general betting licence for real events will be subject to an application fee of between £3,000 and £29,000 and an annual fee of between £14,000 and £155,000.

As part of the consultation, the Government is considering higher fees for those operators causing disproportionate levels of work for the Gambling Commission in ensuring compliance. This would apply, in particular, to those whose operations are geographically spread over multiple locations.

UK Compliance Requirements: Key Provisions of the Licence Conditions and Codes of Practice

FINANCIAL REQUIREMENTS

Licensees must put into effect policies and procedures to minimise the risk of money laundering and to ensure gambling activities are being conducted fairly, and appoint a nominated anti-money laundering officer. Licensees must also set out whether customers' funds held for future gambling are protected in the event of the licensee's insolvency, and the method by which this is achieved.

'FAIR AND OPEN' PROVISIONS

Licensees must satisfy themselves that the terms on which gambling are offered are fair, and an accurate summary must be available to customers. A player's guide to all gambling opportunities must be made available. A written procedure for handling complaints must be put into effect, including the opportunity for complaints to be referred to an independent third party.

REPORTING KEY EVENTS

Licensees must report the occurrence of any significant operational events to the Gambling Commission, including the cessation or commencement of trading on website domains, any litigation against the licensee and any breach in security.

PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS

Licensees must implement policies and procedures designed to prevent underage gambling. Where a payment method other than a UK credit card is used to deposit funds, additional age verification checks must take place.

Licensees must provide information to customers on how to gamble responsibly and where to seek help for problem gambling. Procedures must be in place to enable customers to self-exclude for a minimum period of six months, and to ensure that self-excluded customers cannot gain access to gambling, including identifying multiple accounts. Further procedures are required to monitor customers' behaviour and interact with a customer where concerns arise that their behaviour may indicate problem gambling.

MARKETING

All advertising must be carried out in a socially responsible way and in compliance with the Advertising Standards Authority CAP and BCAP Codes of Practice and the Industry Code for Socially Responsible Gambling Advertising.

Where licensees offer incentive or reward schemes, these must be offered in a socially responsible way and be proportionate to the level of customers' gambling.