

Isle of Man Gambling Supervision Commission



Guidance Notes for an Application for a Licence under the Online Gambling Regulation Act 2001 (as amended)

It is the statutory duty of the Isle of Man Gambling Supervision Commission (the Commission) under any enactment relating to gambling:-

'to permit gambling, in so far as they think it reasonably consistent with the pursuit of the licensing objectives.'

Section 1 of the Gambling (Amendment) Act 2006 states:-

The licensing objectives are the objectives of –

- (a) *ensuring that gambling products promoted by operators in the Island can compete effectively throughout the world;*
- (b) *facilitating competition;*
- (c) *facilitating the provision of modern products and services;*
- (d) *ensuring that gambling is conducted in a fair and open way;*
- (e) *protecting children and other vulnerable persons from being harmed or exploited by gambling; and*
- (f) *preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.*

In this regard the following guidance notes, divided into two sections, are to assist and expedite an application for those who wish to operate any **online gambling operation** from the Isle of Man with a licence issued under Section 4 of the Online Gambling Regulation Act 2001 (the Act).

The Commission recommend that prior to an application being made all potential applicants should fully consider the provisions of the Act and the associated regulations made thereunder and consult with Garth Kimber at the Department of Trade and Industry garth.kimber@gov.im or by telephone 01624 682307.

The Act and Regulations may be found on the following website:

www.gov.im/gambling

The Online Gambling Regulation Act 2001 as amended by the Gambling (Amendment) Act 2006 may be found at:

<http://www.gov.im/lib/docs/gambling/Regulations/onlinegamblingregulationact2001.pdf>

Current regulations made under the On-line Gambling Regulation Act are:-

- [Online gambling duty regulations 2007](#)
- [Online gambling \(licence fees\) order 2004](#)
- [The online gambling \(registration and accounts\) regulations 2007](#)
- [The online gambling \(advertising\) regulations 2007](#)
- [The online gambling \(prescribed descriptions\) regulations 2007](#)
- [The online gambling \(advertising\) \(overseas\) regulations 2007](#)
- [The online gambling \(Systems Verification\) regulations 2007](#)
- [The online gambling \(Betting and Miscellaneous\) regulations 2007](#)
- [The online gambling \(Disaster Recovery\)\(no2\) regulations 2007](#)
- [Online gambling \(Transitional Arrangements\) Regulations 2007](#)

Officers of the Commission are available for informal discussion in person or by electronic means, however where any matter requires legal interpretation or advice it is for the applicant to obtain such independently with their own advisors.

SECTION ONE

Section 1

- **Who is to own, manage and operate the business; and**
- **How the business is to be operated.**

Mind and Management/Control Considerations

The Commission accept that the Isle of Man licence holder may be and indeed is likely to be part of an international business structure. However the **mind, management and control** of the Isle of Man licence holder and operational site must be established and maintained within the jurisdiction at all times.

In order to comply, the Commission will expect the following minimum standards to be evidenced both in the course of the application and thereafter.

A Four Eyes Approach to the Business

The Commission will require evidence that a 'four eyes' approach will be in place at all times.

To achieve acceptable 'four eyes' there must be a minimum of two individual (non corporate) directors **resident** in the Isle of Man. Either of the following is considered acceptable for this purpose:-

- a resident **director/designated official** appointed under Section 10 of the Act **AND** at least **one** other **individual** director who is similarly resident; or
- a resident **operations manager/director** appointed under Section 10A of the Act who is required to be resident in the Isle of Man **AND** at least **one** other **individual** director who is similarly resident.

It is imperative that the Commission are able to gain an understanding as to how the proposed operation is to be established and operated. An applicant is therefore required to provide the following, ideally incorporated in a detailed business plan on application:

- A detailed schematic of the corporate structure of the proposed licence holder to include Directors, Company Secretaries, shareholders and/or beneficiaries and the jurisdiction(s) in which **each** of the entities within the corporate structure are located;
- A detailed percentage shareholding of **each** shareholder holding more than 5% within **each** of the entities within the corporate structure;
- A completed Personal Declaration Form (PDF) for **all** individuals (directors, secretaries, shareholders/beneficiaries etc) as indicated on the PDF form;
- A completed Excepted (pink) Police Vetting Request Form for each individual who has provided a PDF;

- Written confirmation that all **Directors** and **Company Secretaries'** of an Isle of Man operation are aware of their relevant responsibilities under Isle of Man Company Law;
- Provide confirmation that legal advice has been sought to ensure that the proposed operation is compliant with the laws of all the jurisdictions in which it will do business. Such confirmation shall also confirm that the Isle of Man directors will be kept apprised of the jurisdictional laws (including any amendments to those laws) of all jurisdictions with which the Isle of Man licence holder will do business;
- If the services of an Isle of Man Corporate Service Provider (CSP) is to be engaged the C.S.P must be aware that, as part of initial and ongoing due diligence, reference will be made to its regulator;
- Confirmation that the DO and the Isle of Man Directors have access to and knowledge of the entire business operation of which the Isle of Man licence holder forms a part even if certain elements of the business are not located within the jurisdiction;
- The Commission, in accepting that the parts of the business may be located outside of the jurisdiction may have access to any information relating to the licence holder and by any business conducted by or through it. Such access may be obtained via the Commission Inspectorate or other third parties (such as Accountants) appointed on behalf of the Commission. It is likely that the minutes of any board meetings of the Manx licence holder may be required from time to time;
- Forward financial and gambling projections;
- Evidence that an effective ring fencing mechanism for player liabilities will be established;
- Evidence of procedures to demonstrate social responsibility to include provisions for player self exclusion;
- Confirmation that the licence holder will have an annual audit to international standards and that such will be provided together with any management letters to the regulator no later than six months after the year end.

Outsourcing of services

If any element of the operation is to be outsourced to third parties such as computer hosting, banking, odds setting and software supply etc, the Commission require sight of a copy of all:

- Service Level Agreements (SLAs) that are in place. If a SLA cannot be completed prior to the grant a general 'heads of agreement' document or 'memorandum of understanding' will be considered as sufficient until such SLAs can be signed post licensing. Inter-company SLAs will be expected where services are outsourced to entities within the applicant's corporate structure; and
- Evidence is provided to demonstrate that the applicant has undertaken appropriate due diligence in respect of all third party entities to which service performance is to be delegated.

Banking Services

The Commission require:

- A schematic diagram of the money flows from and return to the players; and
- Confirmation that the licence holder will have a bank account with a licensed banking institute within the Isle of Man. This will be a licence condition.

Anti Money Laundering (AML) provisions

The Anti Money Laundering (Online Gambling and Peer to Peer Gambling) Code 2006 applies to all holders of an Online Gambling Regulation Act licence.

This code may be found at;

<http://www.gov.im/lib/docs/gambling//amlcodefinal.pdf>

SECTION TWO

The Application Process

In order to operate online gambling from the Isle of Man an operator must be in possession of a licence issued under section 4 of the Act. **It is therefore important that the provisions of the legislation are fully considered prior to the application being made.**

It is therefore recommended that initial contact is made with Garth Kimber at the IOM Department of Trade and Industry on 01624 682307 or garth.kimber@gov.im who will assist in the application process.

The application is made on the following form downloadable on the link below and submitted with the applicable £1000 application fee;

<http://www.gov.im/lib/docs/gambling//applicationforalicenceref001ne.doc>

As the Commission is required to consult with other agencies of government it would be appreciated if 5 copies (1 original plus 4 photocopies) of all paperwork could be submitted at the time of application.

Submission of a completed PDF for each individual associated with the applicant as detailed on the form should be made at the same time and is available for download on the following link:

<http://www.gov.im/lib/docs/gambling//personaldeclarationform002newfo.doc>

The Commission however reserve the right to request any supplementary information as empowered by the form.

Under the provisions of the Act the Commission are statutorily required to consult the following Isle of Man bodies:-

- the Treasury;
- the Financial Supervision Commission;
- the Chief Constable, and
- the Data Protection Supervisor.

Following the grant of the licence an individual must be approved as designated official/resident operations manager and the following form must be completed and returned.

<http://www.gov.im/lib/docs/gambling//designatedofficialnewformat.doc>

The officers of the Commission are always available to be consulted on a formal or informal basis in the course of the preparation of an application and will attempt to provide appropriate guidance where it is sought.

However, in order that the role of the staff of the Commission is not misunderstood, the Commission wish to emphasise that:-

- the preparation and submission of an application for a licence is the responsibility of the Applicant;
- the decision whether or not to issue a licence is the responsibility of the Commission; and
- the Commission normally take legal advice on questions of law that confront it and applicants for licences must similarly be prepared to seek legal advice on questions of law that confront them.

Contact can be made on gaming@gov.im or by telephone on **01624 694345** and by viewing the Gambling Supervision Commission website www.gov.im/gambling

The Commission would also recommend contact is made to the IOM Customs Division in order to be apprised of its requirements.