

2014 No. 1641

BETTING, GAMING AND LOTTERIES

**The Gambling (Licensing and Advertising) Act 2014
(Transitional Provisions) Order 2014**

<i>Made</i>	- - - -	<i>23rd June 2014</i>
<i>Laid before Parliament</i>		<i>25th June 2014</i>
<i>Coming into force</i>	- -	<i>16th July 2014</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 1(4), (6) and (7) of the Gambling (Licensing and Advertising) Act 2014(a).

Title and commencement

1. The title of this Order is the Gambling (Licensing and Advertising) Act 2014 (Transitional Provisions) Order 2014 and it comes into force on 16th July 2014.

Interpretation

2.—(1) In this Order—

- (a) “the 2005 Act” means the Gambling Act 2005(b);
- (b) “continuation licence” means a remote operating licence issued by the Commission under article 3;
- (c) “existing licence” means a remote operating licence held by a person immediately prior to making an advance application”; and
- (d) “relevant state” means an EEA state, Gibraltar, the Island of Alderney, Tasmania, and Antigua and Barbuda.

(2) Expressions used in this Order and in the Gambling Act 2005 have the same meaning in this Order as in the 2005 Act.

Continuation licences

3.—(1) If the Commission has not finally determined an advance application by 1st October 2014 it must, where the condition in paragraph (2) is satisfied, issue the applicant with a remote operating licence authorising that applicant to carry on such activity as is set out in paragraph (3).

(2) The condition is that the advance application was made on or before 16th September 2014 by—

- (a) a person, or

(a) 2014 c.17.
(b) 2005 c.19.

(b) a holding company or wholly-owned subsidiary (as defined respectively in subsection (1) and (2) of section 1159 of the Companies Act 2006)^(a) of a person, who, on the date of application, provides facilities for remote gambling in Great Britain, the arrangements for which are subject to the law about gambling of a relevant state.

(3) The activity referred to in paragraph (1) is the provision of such facilities for remote gambling as, in the Commission's view, the applicant, holding company or wholly-owned subsidiary of the applicant, as the case may be, provided in Great Britain under the law about gambling of the relevant state on the date of application.

Application of the Gambling Act 2005 to continuation licences

4.—(1) The 2005 Act applies to continuation licences with the modifications specified in this article.

(2) The following provisions do not apply to a continuation licence—

- (a) section 80(1) (requirement for personal licence);
- (b) section 104(1)(a) and (c) (application to vary licence);
- (c) section 111 (power to limit duration); and
- (d) section 112 (renewal of licence).

(3) Section 110 (indefinite duration) has effect as if it provided for a continuation licence to cease to have effect on the earlier of the date on which—

- (a) the Commission finally determines the advance application, or
- (b) it ceases to have effect in accordance with section 113, 114, 115, 118 or 119 of the 2005 Act (which provide respectively for the surrender, lapse, forfeiture, suspension and revocation of operating licences).

Annual fees for an applicant with a continuation licence but no existing licence

5.—(1) This article only applies to a person—

- (a) who does not hold an existing licence;
- (b) who makes an advance application for a remote operating licence; and
- (c) to whom a continuation licence was issued on 1st October 2014.

(2) The first annual fee payable by the applicant under section 100(1)(a) of the 2005 Act in respect of the continuation licence is the amount prescribed for the kind of remote operating licence issued to the applicant as a continuation licence.

(3) Where the Commission grants the advance application (whether in whole or in part) and issues a remote operating licence to the applicant, the first annual fee payable by the applicant for that remote operating licence is—

- (a) if the prescribed first annual fee payable under section 100(1)(a) of the 2005 Act for that remote operating licence is equal to or less than the prescribed first annual fee payable for that continuation licence, £0; or
- (b) if the prescribed first annual fee payable under section 100(1)(a) of the 2005 Act for that remote operating licence exceeds the prescribed first annual fee payable for that continuation licence, the difference between those two amounts in respect of the period from the date of issue of that remote operating licence to 30th September 2015.

(4) Where—

- (a) the Commission grants (in whole or in part) the advance application and issues a remote operating licence to the applicant; and

(a) 2006 c.46.

- (b) the prescribed first annual fee that would, but for article 5(3)(a), have been payable under section 100(1)(a) of the 2005 Act for that remote operating licence is less than the prescribed first annual fee payable for that continuation licence,

the Commission must repay to the applicant the difference between those two amounts in respect of the period from the date of issue of that remote operating licence to 30th September 2015.

(5) Where the Commission wholly rejects the advance application, it must repay to the applicant that portion of the prescribed first annual fee paid for the continuation licence in respect of the period from the date the application is rejected to 30th September 2015.

(6) Where the Commission grants the advance application (whether in whole or in part) and issues a remote operating licence to the applicant, the annual fee for that remote operating licence under section 100(1)(b) of the 2005 Act must be paid before 1st October 2015 and before 1st October in each year thereafter.

Annual fees for an applicant with a continuation licence and an existing licence

6.—(1) This article applies only to a person—

- (a) who holds an existing licence;
- (b) who makes an advance application to vary that licence; and
- (c) to whom a continuation licence was issued on 1st October 2014.

(2) The first annual fee payable by the applicant under section 100(1)(a) of the 2005 Act in respect of the continuation licence is the difference between—

- (a) the fee prescribed for the kind of remote operating licence authorising the provision of the activities that the applicant was authorised to provide under—
 - (i) existing remote operating licence, and
 - (ii) the continuation licence; and
- (b) such proportion of the last prescribed annual fee paid in respect of the existing licence as relates to the period from 1st October 2014 to the next anniversary of the issue of that licence.

(3) Where the Commission grants (whether in whole or in part) the advance application to vary the existing licence—

- (a) if the prescribed first annual fee that would have been payable under section 100(1)(a) of the 2005 Act in respect of the kind of remote operating licence held by the applicant after the grant of the application—
 - (i) exceeds the amount referred to in paragraph (2)(a), the applicant must pay to the Commission the amount specified in paragraph (4) within 30 days of the date on which the application was granted;
 - (ii) is less than the amount referred to in paragraph (2)(a), the Commission must repay to the applicant the amount specified in paragraph (4); and
- (b) the annual fee under section 100(1)(b) of the 2005 Act for the remote operating licence as varied must be paid before 1st October 2015 and before 1st October in each year thereafter.

(4) The amount referred to in paragraph (3)(a)(i) and (ii) is the difference between—

- (a) the amount referred to in paragraph (2)(a), and
- (b) the prescribed first annual fee that would have been payable under section 100(1)(a) of the 2005 Act for the kind of remote operating licence held by the applicant upon the grant of the application,

in respect of the period from the date on which the application for variation was granted to 30th September 2015.

(5) Where the Commission wholly rejects the advance application to vary the existing licence—

- (a) it must repay to the applicant such proportion of the difference between—

- (i) the amount referred to in paragraph (2)(a), and
 - (ii) the prescribed annual fee payable for the remote operating licence held following the rejection,
- as relates to the period from the date of rejection to 30th September 2015; and
- (b) the annual fee under section 100(1)(b) of the 2005 Act for the remote operating licence held must be paid before 1st October 2015 and before 1st October in each year thereafter.

Annual fees for an applicant with an existing licence but no continuation licence

7.—(1) This article applies only to a person—

- (a) who makes an advance application to vary an existing licence which is granted (in whole or in part) by the Commission; and
- (b) to whom no continuation licence was issued on 1st October 2014.

(2) Upon the grant of the advance application for variation, the applicant must pay to the Commission, within 30 days, the difference between—

- (a) the prescribed first annual fee under section 100(1)(a) for the kind of remote operating licence held by the applicant following the grant of the application; and
- (b) such proportion of the last prescribed annual fee paid for the existing licence as relates to the period between the date on which the application for variation was granted and the next anniversary of the issue of that licence.

(3) The annual fee under section 100(1)(b) of the 2005 Act for the remote operating licence as varied must be paid before the first anniversary of the date of grant of the application and before the same date in each year thereafter.

23rd June 2014

Helen Grant
Minister for Sport and Equalities
Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transitional arrangements that will apply in respect of advance applications made under the Gambling Act 2005 (“2005 Act”) for, or to vary, a remote operating licence in anticipation of the coming into force of the new licensing requirement in subsections (1)(1) and (2) of the Gambling (Licensing and Advertising) Act 2014 (“the 2014 Act”).

Article 3 provides for continuation licences to be issued to applicants who make an advance application before 16th September and who (or whose holding company or wholly owned subsidiary) provide facilities for remote gambling in Great Britain, the arrangements for which are subject to the law about gambling of another EEA State, Gibraltar or place specified in the Gambling Act 2005 (Advertising of Foreign Gambling) Regulations 2007 (S.I. 2007/2329) at the time of making their application, if their application has not been determined by 1st October 2014. This is when the 2014 Act commences. A continuation licence is a remote operating licence to which the 2005 Act applies with the modifications in article 4. It ceases to have effect on the date on which the Commission finally determines the advance application, unless it otherwise ceases before that date.

Articles 5, 6 and 7 make provision in relation to payment of annual fees as prescribed in the Gambling (Operating Licence and Single-Machine Permit Fees) Regulations 2006 (S.I. 2006/3284).

Article 5 applies where an operator who does not have an existing remote operating licence makes an advance application and is issued with a continuation licence on 1st October 2014—

- the first annual fee payable for the continuation licence is that for the kind of remote operating licence issued to the applicant as a continuation licence,

- on final determination of the advance application, no further first annual fee is payable if the applicant is issued with the same type of licence as a result,
- a further fee is only payable or refund due from the Commission where the applicant is issued with a licence that attracts a different prescribed fee to that paid in respect of the continuation licence, or the application is wholly rejected,
- thereafter, the annual fee for the remote operating licence held must be paid before 1st October 2015, and before 1st October in each subsequent year.

Article 6 applies where an operator who has an existing remote operating licence makes an advance application to vary that licence and is issued with a continuation licence on 1st October 2014—

- the first annual fee payable for the continuation licence is that for the kind of remote operating licence authorising the provision of the activities that the applicant is authorised to provide under the existing licence and the continuation licence, with credit being given for the relevant proportion of the last annual fee paid in respect of the existing licence,
- on final determination of the advance application, no further first annual fee is payable if the applicant holds the same type of licence as a result,
- a further fee is only payable or refund due from the Commission where the applicant holds a licence that attracts a different prescribed fee than that paid in respect of the continuation licence, or their application wholly rejected,
- thereafter, the annual fee for the remote operating licence held must be paid before 1st October 2015, and before 1st October in each subsequent year.

Article 7 applies where an operator who has an existing remote operating licence makes an advance application to vary that licence which is granted by the Commission (in whole or in part), but is not issued with a continuation licence—

- the prescribed first annual fee is that payable for the kind of remote operating licence so varied, with credit given for the relevant proportion of the last annual fee paid in respect of the existing licence;
- thereafter, the annual fee for the remote operating licence as varied must be paid before the first anniversary of the date of grant of the variation application, and before the same date in each subsequent year.

A full impact assessment of the effect that the reform of the remote gambling regulatory framework will have on the costs of business is available from Department of Culture, Media and Sport, 100 Parliament Street, London SW1A 2BQ or on www.gov.uk. This Order does not affect the costs as set out in that impact assessment.

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