

# **GAMBLING (LICENSING AND ADVERTISING) ACT 2014**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

4. The 2005 Act introduced a new regulatory regime to govern the provision of gambling in Great Britain and created a single regulator, the Gambling Commission.
5. The general approach adopted under the 2005 Act is that a person who provides facilities for gambling must hold an operating licence from the Gambling Commission, unless otherwise exempted. A person who provides facilities for gambling without a licence as required commits an offence under section 33 of the 2005 Act.
6. The 2005 Act regulates both ‘non-remote’ and ‘remote’ gambling.
7. Remote gambling means gambling in which persons participate by the use of ‘remote communication’. This includes the internet, telephone, television, radio, or any other kind of electronic or other technology for facilitating communication.
8. A ‘remote operating licence’ is required to provide facilities for remote gambling if (and only if) at least one piece of ‘remote gambling equipment’ used in the provision of the gambling facilities is located in Great Britain. The effect of this is that remote gambling operators who locate all of their remote gambling equipment overseas do not need a remote operating licence from the Gambling Commission, whether or not their remote gambling facilities are used by British consumers.
9. The 2005 Act also regulates advertising of gambling services in Great Britain. Section 328 of the 2005 Act empowers the Secretary of State to make regulations controlling the advertising of gambling. To date no such regulations have been made. In addition to the advertising offences in the 2005 Act (see further below), licensed operators must comply with the Code of Practice issued by the Gambling Commission under section 24 of the 2005 Act. The Code requires operators to comply, as appropriate, with the Broadcast Committee of Advertising Practice, the Committee of Advertising Practice codes issued under the auspices of the Advertising Standards Authority, and the gambling industry’s own *Gambling Industry Code for Socially Responsible Advertising*.
10. There are two general advertising offences in the 2005 Act: sections 330 and 331.
11. **Section 330** makes it an offence to advertise unlawful gambling, by remote or non-remote communication. For the purposes of section 330, advertised gambling is unlawful if an operator does not hold the required licence from the Gambling Commission for the gambling to take place as advertised. In the case of remote gambling, the offence of advertising unlawful gambling only applies if at least one piece of remote gambling equipment to be used in providing facilities for the advertised gambling is situated in Great Britain (see section 333 (territorial application: remote advertising)).

*These notes refer to the Gambling (Licensing and Advertising)  
Act 2014 (c.17) which received Royal Assent on 14 May 2014*

12. [Section 331](#) makes it an offence to advertise foreign gambling, whether by remote or non-remote communication. ‘Foreign gambling’ means gambling which either takes place in a non-EEA state (e.g. a casino in Australia), or gambling by remote means which is not regulated by the gambling law of any EEA state. For the purposes of section 331, Gibraltar is treated as if it is an EEA state. The Secretary of State may also make regulations specifying places which are to be treated as though they were EEA states for the purposes of section 331, known as the “White List”. There are currently four places on the White List: the Isle of Man and Tasmania, the States of Alderney, and Antigua and Barbuda. Gambling operators based in Gibraltar and White List places are able to advertise their remote gambling services in the United Kingdom without a remote operating licence from the Gambling Commission.
13. The Act engages the Technical Standards and Regulations Directive [98/34/EC](#) (as amended by Directive [98/48/EC](#)) and as such was required to be notified in draft to the European Commission. This has been done.