



Gambling Division
HM Government of Gibraltar

Gambling Act 2021

Key principles and Sections



Key Objectives

- Modernise whilst ensuring credibility of the regulatory framework
- Maintain Gibraltar as an attractive remote gambling hub and key licensing jurisdiction
- Take account of the cross jurisdictional/diversified nature of B2B/B2C supply
- Enable the Act (by way of secondary legislation (Minister) and codes/guidance (Gambling Commissioner) to keep up with change
- Introduce new investigation powers and sanctions (including appointment of skilled persons), but counter with notice rights and rights of appeal (GAT)
- Introduce an approved persons regime
- Make the Act consistent with other regulatory regimes such as FS.
- Regulation reflecting the changing nature of the supply chain
- Widen the net to reduce level of legitimate unregulated gambling services



Principles

- The offering has always been and will continue to be based on economic contribution, but ensuring B2C supply chain
- Substance (so no complete IT infrastructure freedom (regulator discretion), but flexibility of approach – proportionate to the nature and size of the business and overall economic value/substance).
- Flexible to allow some extra territorial regulation (platform, software suppliers for B2B supply (licensing/sub licensing but not sheltering))
- “mind and management” added to the list of licensing criteria



Timescales

- One final and urgent review by the Project Team and Advisers to the Minister
- Draft Act and explanatory note to key stakeholders ASAP
- Workshops with various stakeholders
- Production and consultation on licensing categories, fees and codes/secondary legislation
- Starting gun fired today!



Regulatory Objectives

9. The gambling regulatory objectives are –

- (a) the preservation of confidence in gambling markets;
- (b) the protection of consumers, especially children, young persons and problem gamblers;
- (c) the promotion of fair and responsible gambling;
- (d) preventing gambling being a source of crime, being associated with crime or being used to support or proliferate financial crime;
- (e) the public interest of Gibraltar including (but not limited to) its reputation and macro-economic interests,
- as more specifically described in Schedule 1;



B2C

17. (1) The following are regulated activities for the purposes of this Act –

- Carrying on the business of remote gambling, or conducting, managing or providing facilities for remote gambling with, to or for members of the public (“A”) where A enters into a gambling transaction regardless of whether A is in Gibraltar or elsewhere (“B2C remote gambling”).



B2B

- Carrying on the business of remote gambling, or conducting, managing or providing facilities for remote gambling with, to or for:
- another licence holder ; or
- another person or entity (“C”) who conducts, manages or provides facilities for remote gambling in or from a place other than Gibraltar which, if done by C in or from Gibraltar would be a regulated activity.



Other Activities??

- Conducting, managing or providing advertising or marketing services for gambling wherever in the world the gambling takes place, except exempt advertising or marketing; or
- Being directly or indirectly the holding company for, or legally or beneficially owning more than [20%] of the shares in a Relevant Company; or
- Hosting remote gambling equipment used in connection with or for remote gambling; or
- Providing disaster recovery and or business continuity facilities in connection with or for remote gambling; or
- Holding or managing customer funds in connection with remote gambling (save in the case of a licensed credit institution); or
- Providing to a licence holder co-location and or other managed technology services including (but not limited to) cloud services or decentralised hosting protocols; or
- Such other activities as the Minister shall prescribe

Extra Territorial Licensing- Licensing required for all essential suppliers??

- For the purposes of subsection 17(1)(ii):
- providing facilities for remote gambling includes providing-
- Content aggregator services or facilities;
- Server-based content software;
- Live gaming services or facilities;
- A platform for gaming and or betting;
- Real betting data, event content and or odds;
- Managed trading services
- Virtual or simulated content for the purposes of betting;
- One or more of the following services in connection with gambling –
- Fraud prevention and or risk management services;
- Customer due diligence assessment or compliance;
- Customer identification verification services (ii) facilities for remote gambling shall be deemed to have been provided in Gibraltar, regardless of where they are provided from, if they are provided to or for the benefit of a licence holder.



Further Definition

Providing facilities for remote gambling

19 (1) For the purposes of this Act, a person shall be regarded as conducting, managing or providing facilities for remote gambling in or from Gibraltar if:

- at least one piece of remote gambling equipment used in the conducting, managing or provision of the facilities is situated in Gibraltar; or
- that person carries on or conducts remote gambling in or from Gibraltar; or
- that person carries on or conducts remote gambling in any other part of the world from Gibraltar; or
- that person, in or from Gibraltar, conducts or is responsible for the organisation, authorisation, marketing, production, operation or any other form of management of remote gambling equipment located anywhere in the world; or
- that person, in or from Gibraltar, enters into, offers to enter into or holds out as able or willing to enter into a gambling transaction, whether remotely or non-remotely, regardless of whether the gambling is to take place in Gibraltar or elsewhere.

Regulated Functions (licensing key individuals)

- **Obligation to ensure regulated functions being performed.**
- 58.(1) Subject to section subsection (3), a licence holder must ensure that it has a regulated individual performing or responsible for the performance of regulated functions.
- (2) The same individual may perform or be responsible for the performance of more than one regulated function.
- (3) A licence holder must ensure that it has a regulated individual performing the regulated functions specified in Part 1 of Schedule 3.



Threshold Conditions

36.(1) In this Act, “the threshold conditions”, in relation to a regulated activity, means the conditions set out in or specified under Schedule 2, as supplemented by regulations under subsection (3).

- Conduct rules
- Location of offices
- Appropriate resources
- Effective supervision
- Suitability
- Business model
- Customer funds
- Prevention of financial crime
- Duty of candour and spontaneous cooperation



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Poll

- Q1. Do the audience believe the Gibraltar Gambling Act needs modernising?**

- Q2. Do the audience think gambling marketing / affiliate marketing should be licensed?**

- Q3. Should B2B licensing be extended to the essential supply chain?**