

Remote Gambling – Why the Isle of Man is a Jurisdiction to Consider



Remote gambling is not new to the Isle of Man which first introduced dedicated remote gambling legislation back in 2001, in the form of the Online Gambling Regulation Act 2001. Since then the Isle of Man has continued to assess and where necessary amend its legislation to ensure that the Island continues to be, and is recognised as being, a well regulated and reputable jurisdiction for remote gambling operators and for the companies that provide services to the industry.

The Isle of Man is not and never has been part of the United Kingdom, however, it is part of the British Isles and is a Crown Dependency and therefore has close ties with the UK. The Isle of Man has its own Parliament, Tynwald, which is the oldest continuous Parliament in the world and therefore the Island has a significant degree of autonomy in relation to its domestic legislation and politically. The Isle of Man is not part of the European Union but it has a special relationship with the EU as set out in Protocol 3 to the UK's Treaty of Accession, which allows free movement of industrial and agricultural goods in trade between the Island and the EU.

The UK Gaming Act 2005

On 1st September 2007, the key provisions of the UK Gambling Act 2005 (the **2005 Act**) came into force bringing with it a massive overhaul of the UK's gambling laws. The 2005 Act covers both remote and land based gambling operators and comprehensively updates the UK's old gambling laws and provides new powers and protections for gambling.

Prohibition on Advertising Foreign Gambling in the UK

Of particular relevance to remote gambling operators based outside of the UK is the fact that the 2005 Act makes it unlawful to advertise "foreign gambling" in the UK. "Advertising" is defined in the 2005 Act as including anything which is done to encourage people to take advantage of facilities for gambling and it also covers bringing information about gambling facilities to people's attention with a view to increasing the use of those facilities. It also covers the activities of those who act with the specific intention of encouraging the use of facilities for gambling.

Non-remote gambling constitutes "foreign gambling" if it takes place in a non-EEA State. Remote gambling constitutes "foreign gambling" if none of the arrangements for it are subject to the laws of an EEA State (which for these purposes includes Gibraltar). However, the UK Secretary of State is entitled to specify that a country is to be regarded as an EEA State for the purposes of the definition of "foreign gambling" and it is this list of countries which has become informally known as the "UK White-List".

The UK White-List

In order to be placed on the UK White-List, jurisdictions have to be able to demonstrate that they have a satisfactory regulatory regime in place, the licensing and regulatory objectives of which broadly achieve the objectives under which the UK gambling regime operates, namely:

- to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- to ensure that gambling is conducted in a fair and open way; and
- to protect children and other vulnerable persons from being harmed or exploited by gambling.

Initially, only the Isle of Man and Alderney made it on to the UK White-List having successfully passed a stringent assessment of their regulatory standards. As a result, remote gambling operators licensed in the Isle of Man are not subject to the ban on advertising in the UK and do have advertising access to the important UK market. Tasmania and Antigua have now been added to the White-List.

For remote gambling operators not based in a white-listed jurisdiction or an EEA State, the ban on advertising foreign gambling in the UK is more problematic. For such companies to be able to advertise in the UK they will need to move to an EEA State or to a jurisdiction on the UK White-List or, alternatively, the jurisdiction in which they are based will need to successfully apply for a place on the UK White-List. This means that operators based in jurisdictions such as Costa Rica, Kahnawake in Canada and the Netherland Antilles will not be permitted to advertise in the UK their gambling services which are not regulated in an EEA State or UK White-Listed jurisdiction.

What this means for the Isle of Man

The inclusion of the Isle of Man on the UK White-List is further evidence of the Islands high regulatory standards in the area of e-gaming and is another reason for remote gambling operators to establish their business operations in the Isle of Man. The UK is an important market for remote gambling operators and the ability of the Isle of Man to offer its e-gaming licenceholders advertising access to the UK market sets it apart from its competitors.

In addition to its UK White-List inclusion, the Isle of Man offers a number of other real advantages to those companies choosing to locate their operations in the Isle of Man, including:

- a high quality and stable political, legal, fiscal and regulatory environment;
- a pool of professional expertise and talent to service and support all of the requirements of the e-gaming industry, including lawyers, internet service providers, hardware suppliers, graphic designers, web designers, software developers, disaster recovery centres, e-payment service providers and accountants;
- a first class telecommunications infrastructure. The Isle of Man was the world's second and Europe's first jurisdiction to have an operational 3G mobile network which was launched in December 2002 and the world's first commercial HSDPA 3.5G service which was launched in November 2005. The Island also has two self-healing (SDH) fibre rings and has 1.2 tera bits capacity with just 0.02% utilisation. The jurisdiction also has resilient and reliable power supplies, something that is essential not just for remote gambling operators but for operators looking for jurisdictions within which to base their disaster recovery facilities;
- low gaming duty;
- a general rate of corporate income tax of 0%; and
- a location within the centre of Europe which is within the same time zone as the UK and never more than one or two hours different from all other European countries.

Conclusion

The Island has already succeeded in attracting a number of the e-gaming industry leaders to set up their business operations on the Isle of Man. The inclusion of the Island on the UK White-List can only strengthen the Island's position to accelerate the growth of this sector. Add to this the other real advantages offered by the Island and the Governments proactive "can do" approach, the Isle of Man really is a jurisdiction to consider when deciding where to base your e-gaming operations.

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