

Gambling Commission
Protocol for Casino Licence Holders
Relating to Processing of Variation and
Approval Applications

Introduction

1. The purpose of this Protocol is to assist the casino licence holders in understanding the general practices of the Commission when processing certain applications, and to clarify when applications need to be lodged by licence holders. The Commission has power to regulate its procedure in such manner as it sees fit. It may therefore modify its procedures in particular cases.

Applications to vary, specify or revoke licence conditions

2. An application to vary, specify or revoke a licence condition should be lodged with the Gambling Commission Secretariat no later than 4pm on the date 30 working days prior to the Commission meeting at which it is proposed that the Commission should hear and determine the application. As set out in paragraph 3, determination of an application may be deferred if, having lodged an application, the applicant submits new information or evidence within the 30 working day period requiring comment from other parties. If an application is lodged within 30 working days of a Commission meeting, or is incomplete, the licence holder should have no expectation that it will be determined at the Commission's meeting.
3. The minimum 30 working day time frame is necessary to accommodate the following steps:
 - (a) notification of the Secretary of Internal Affairs. Pursuant to section 140 of the Act, the Secretary has 20 working days after being notified of the application within which to make a submission;
 - (b) consultation with any other potentially affected parties, allowing 20 working days for submissions, as prescribed in section 140;
 - (c) providing the applicant with an opportunity to comment on submissions by the Secretary and other affected persons, if the Commission considers it appropriate. Any comments by the applicant must be strictly in reply. If new material is submitted by the applicant, determination of the application may be deferred to allow adequate time for the Secretary and any affected party to comment and to allow the Commission to consider the new material and any comments;
 - (d) obtaining independent or expert advice on any issues raised in the application, as necessary. If independent or expert advice raises issues not identified and addressed by the applicant, the Secretary, or any other party, the Commission may decide to circulate the advice to parties for comment. In these circumstances, determination of the application is likely to be deferred to allow adequate time for comment;
 - (e) preparation of an agenda paper on the proposal for Commissioners taking into account all of the above;
 - (f) circulation of agenda papers five working days ahead of Commission meetings.

Applications for Approvals under Licence Conditions

4. An application by a licence holder for approval pursuant to a casino licence condition should be lodged with the Executive Director of the Commission no later than 4pm on the date 30 working days prior to the Commission meeting at which it is proposed that the Commission consider and determine the application. As set out in paragraph 5, determination of an application may be deferred if, having lodged an application, the applicant submits new information or evidence within the 30 working day period. If an application is lodged within 30 working days of a Commission meeting, or is incomplete, the licence holder should have no expectation that it will be determined at the Commission's meeting.
5. The minimum 30 working day time frame is necessary to accommodate the following steps:
 - (a) notification of the Secretary of Internal Affairs. The Commission will generally consult with the Secretary on an application for approval, and will allow the Secretary up to 20 working days, depending on the circumstances, within which to submit a response;
 - (b) consultation with any other potentially affected parties, allowing up to 20 working days for submissions;
 - (c) providing the applicant with an opportunity to comment on submissions by the Secretary and other affected persons, if the Commission considers it appropriate. Any comments must be strictly in reply. If new material is submitted by the applicant, determination of the application may be deferred to allow adequate time for the Secretary and any affected party to comment and to allow the Commission to consider the new material and any comments;
 - (d) obtaining independent or expert advice on any issues raised in the application, as necessary. If independent or expert advice raises issues not identified and addressed by the applicant, the Secretary, or any other party, the Commission may decide to circulate the advice to parties for comment. In these circumstances, determination of the application is likely to be deferred to allow adequate time for comment;
 - (e) preparation of an agenda paper on the proposal for Commissioners;
 - (f) circulation of agenda papers five working days ahead of Commission meetings.

Form of applications

6. Applications for approvals or to vary, specify or revoke licence conditions must be complete at the time of lodgement and include all attachments and plans, and should be accompanied by the relevant fee. Plans should be current, labelled correctly and appropriately annotated. Seven copies of the application and attachments should be provided at lodgement.
7. A complete application must include all information and supporting evidence necessary for the Commission to consider and determine the application, and should include:
 - (a) an adequate description of the proposal. This should include a description of current circumstances (including relevant approvals and plans), a description of proposed changes (with relevant plans), and reasons for the same;
 - (b) the condition(s) which the applicant seeks to vary, specify or revoke or pursuant to which approvals are sought. If a variation is sought, the application should include proposed rewording;

- (c) detailed, fact-based analysis of whether the proposal will or may result in an increase in opportunities for casino gambling. This will identify whether there is any proposed increases in machine, table or player space numbers, or change in game mix, and will address any other factors identified as potentially relevant by the Commission in its decisions, depending on the circumstances. If the analysis includes a submission that an increase in opportunities for casino gambling is accompanied by a proportionate reduction in other opportunities for casino gambling, this submission must be supported by fact-based evidence;
 - (d) an assessment of whether the proposal will or may contribute to preventing and minimising harm caused by gambling. The assessment will include, as appropriate, a description of any mitigation measures;
 - (e) an assessment of whether the proposal will or may contribute to ensuring the integrity and fairness of games and limiting opportunities for crime and dishonesty. This assessment shall include, where relevant, a description of proposed surveillance and CCTV arrangements, identifying any proposed changes;
 - (f) an implementation plan stating when the proposal will take effect, including full details of any transition phases. For example, any proposal for approval of revised floor plans should identify when the proposed floor plan will take effect and describe any transition arrangements;
 - (g) identification of those persons interested or affected by the proposal, the consultation undertaken, if any, and any response to the views of those consulted.
8. The Commission may, at any time before deciding an application, by written notice, require the applicant to provide further information relating to the application. Any further information requested is to be made available to the Commission no later than 10 working days before it determines an application. The Commission may defer determination of an application to allow adequate time for parties to consider and make submissions on information requested from the applicant.
9. The Commission will not process an application, and the time periods specified above will not commence running, until a complete application is received. An application will be put on hold while supplementary information, if necessary, is obtained from the applicant.

Communicating with the Commission

10. Where a licence holder seeks to communicate with the Commission on any matters relating to the merits of the application or its outcome, such communication shall be by way of a letter filed with the Commission, and served on other parties. It is generally inappropriate for a licence holder to seek to communicate with the Commission after a hearing has concluded and prior to the issue of the Commission's decision.

Interpretation of the Act

11. The licence holder should generally seek legal advice from its own counsel and lawyers, rather than seeking to refer legal questions to the Commission.

Working Day

12. "Working Day" is defined in the Interpretation Act.

Peter Chin
 Chief Gambling Commissioner
 Reissued August 2005