



ICLG

The International Comparative Legal Guide to:

Gambling 2017

3rd Edition

A practical cross-border insight into gambling law

Published by Global Legal Group, with contributions from:

Arthur Cox
Brandl & Talos Attorneys at law
Carallian
Cuatrecasas, Gonçalves Pereira
DLA Piper UK LLP
Gaming Legal Group
Hassans International Law Firm
Herzog Fox & Neeman Law Office
Hinckley, Allen & Snyder LLP
Horten Law Firm
HWL Ebsworth Lawyers
International Masters of Gaming Law

Jones Walker LLP
Khaitan & Co
Melchers Law Firm
Miller Thomson LLP
MME Legal | Tax | Compliance
Montgomery & Associados
Nestor Nestor Diculescu Kingston Petersen
Portilla, Ruy-Díaz y Aguilar, S.C.
Rato, Ling, Lei & Cortés – Advogados
Sbordoni & Partners
Sirius Legal



Contributing Editor
Hilary Stewart-Jones,
DLA Piper UK LLP

Sales Director
Florjan Osmani

Account Directors
Oliver Smith, Rory Smith

Sales Support Manager
Paul Mochalski

Editor
Tom McDermott

Senior Editor
Rachel Williams

Chief Operating Officer
Dror Levy

Group Consulting Editor
Alan Falach

Group Publisher
Richard Firth

Published by
Global Legal Group Ltd.
59 Tanner Street
London SE1 3PL, UK
Tel: +44 20 7367 0720
Fax: +44 20 7407 5255
Email: info@glgroup.co.uk
URL: www.glgroup.co.uk

GLG Cover Design
F&F Studio Design

GLG Cover Image Source
iStockphoto

Printed by
Ashford Colour Press Ltd
December 2016

Copyright © 2016
Global Legal Group Ltd.
All rights reserved
No photocopying

ISBN 978-1-911367-26-0
ISSN 2056-4341

Strategic Partners



Editorial Chapter:

1	Shaping the Future of Gaming Law – Michael Zatezalo & Jamie Nettleton, International Masters of Gaming Law	1
---	--	---

General Chapters:

2	2016: Post-Brexit Upheaval and Raising the Compliance Bar – Hilary Stewart-Jones, DLA Piper UK LLP	3
3	Update on Fantasy Sports Contests in the United States – Changes Over the Past Year and What May be Ahead in the Future – Mark Hichar, Hinckley, Allen & Snyder LLP	6

Country Question and Answer Chapters:

4	Australia	HWL Ebsworth Lawyers: Anthony Seyfort	16
5	Austria	Brandl & Talos Attorneys at law: Thomas Talos & Nicholas Aquilina	21
6	Belgium	Sirius Legal: Bart Van den Brande	27
7	Brazil	Montgomery & Associados: Neil Montgomery & Helena Penteadó Morales Calderano	32
8	Canada	Miller Thomson LLP: Danielle Bush	36
9	Denmark	Horten Law Firm: Nina Henningsen	43
10	Dutch Caribbean	Gaming Legal Group & Carallian: Bas Jongmans & Dick Barmentlo	49
11	Germany	Melchers Law Firm: Dr. Joerg Hofmann & Dr. Matthias Spitz	57
12	Gibraltar	Hassans International Law Firm: Peter Montegriffo QC & Nyreen Llamas	63
13	Greater Antilles	Gaming Legal Group: Bas Jongmans & Josefina Reyes Santana	70
14	India	Khaitan & Co: Ganesh Prasad & Sharad Moudgal	83
15	Ireland	Arthur Cox: Rob Corbet & Chris Bollard	89
16	Israel	Herzog Fox & Neeman Law Office: Yehoshua Shohat Gurtler	95
17	Italy	Sbordoni & Partners: Stefano Sbordoni	100
18	Macau	Rato, Ling, Lei & Cortés – Advogados: Pedro Cortés & Manuel Moita Júnior	105
19	Malta	Gaming Legal Group: Bas Jongmans & Stephen Dullaghan	110
20	Mexico	Portilla, Ruy-Díaz y Aguilar, S.C.: Carlos Fernando Portilla Robertson & Ricardo Valdivia González	118
21	Netherlands	Gaming Legal Group: Bas Jongmans	123
22	Portugal	Cuatrecasas, Gonçalves Pereira: Gonçalo Afonso Proença	129
23	Romania	Nestor Nestor Diculescu Kingston Petersen: Cosmina Simion & Ana-Maria Baciu	135
24	Switzerland	MME Legal Tax Compliance: Dr. Andreas Glamer & Dr. Luka Müller-Studer	142
25	United Kingdom	DLA Piper UK LLP: Hilary Stewart-Jones	148
26	USA – Alabama	Jones Walker LLP: Kirkland E. Reid	155
27	USA – Florida	Jones Walker LLP: Marc W. Dunbar	160
28	USA – Louisiana	Jones Walker LLP: J. Kelly Duncan	164
29	USA – Mississippi	Jones Walker LLP: Thomas B. Shepherd III	168
30	USA – Texas	Jones Walker LLP: Nicole Duarte	172

Further copies of this book and others in the series can be ordered from the publisher. Please call +44 20 7367 0720

Disclaimer

This publication is for general information purposes only. It does not purport to provide comprehensive full legal or other advice. Global Legal Group Ltd. and the contributors accept no responsibility for losses that may arise from reliance upon information contained in this publication. This publication is intended to give an indication of legal issues upon which you may need advice. Full legal advice should be taken from a qualified professional when dealing with specific situations.

USA – Mississippi



Jones Walker LLP

Thomas B. Shepherd III

1 Relevant Authorities and Legislation

1.1 Which entities regulate what type of gambling activity in your jurisdiction?

The Mississippi Gaming Commission, and to a much lesser extent, the Mississippi Department of Revenue, regulates all casino gambling. The Commission also regulates the licensing and conduct of charitable bingo. State and local law enforcement assist with enforcing statutes against illegal gambling operations such as “grey market” devices and internet cafes.

1.2 Specify all legislation which impacts upon any gambling activity (including skill, prize competitions and draws, fantasy, egaming and social games), and specify in broad terms whether it permits or prohibits those activities.

The Mississippi Gaming Control Act is codified at Miss. Code Ann. Section 75-76-1 *et seq.* The Mississippi gaming criminal statutes, codified at Miss. Code Ann. Section 97-33-1 *et seq.*, make illegal essentially all gambling activities in the State of Mississippi, unless those activities and games are conducted at permitted locations as described in the statutes and under the auspices of the Mississippi Gaming Control Act.

Charitable bingo is authorised by Miss. Code Ann. Section 97-33-50 *et seq.* and raffles for a charitable or civic organisation are governed by Miss. Code Ann. Section 97-33-49. Internet sweepstakes cafes are prohibited by Miss. Code Ann. Section 97-33-8.

Daily fantasy sports operators are governed by Senate Bill 2541 adopted in the 2016 Mississippi Legislative Session and codified at Miss. Code Ann. Section 97-33-301 *et seq.*

2 Application for a Licence and Licence Restrictions

2.1 Who can apply for a licence to supply gambling facilities?

Any person or entity may apply for a gaming operator licence or a licence to manufacture or distribute gaming devices or a finding of suitability to be associated with a gaming licensee. However, no person may be granted a gaming licence or found suitable who

has been convicted of a felony in the courts of Mississippi, another state or the United States; no person may be granted a gaming licence or found suitable who has been convicted of a crime in any court of another state or the United States, which, if committed in Mississippi, would be a felony; and no person may be granted a gaming licence or finding of suitability who has been convicted of a misdemeanour in the courts of Mississippi or another state when such conviction was for gambling, sale of alcoholic beverages to minors, prostitution or procuring or inducing individuals to engage in prostitution.

2.2 Who or what entity must apply for a licence or authorisations and which entities or persons, apart from an operator, need to hold a licence? Are personal and premises licences needed? Do key suppliers need authorisation?

Any person or entity that wishes to engage in casino gaming operations in Mississippi must apply to the Mississippi Gaming Commission for a gaming operator licence for a specific location. Any person or entity that wishes to engage in the manufacture or sale of gaming devices and certain associated equipment (as determined by the Commission from time to time) in Mississippi must apply for a manufacturer and/or distributor licence. Any person or entity owning 5% or more of the securities of a gaming licensee or its holding company must apply for a finding of suitability and/or registration as a holding company or publicly traded corporation. Certain officers and directors of licensees and holding companies must apply for findings of suitability, and gaming employees must apply for work permits. Game testing labs must apply for a testing lab permit. Junket representatives must apply for junket representative approval. Any person or entity (such as a landlord) receiving compensation from a casino licensee based upon a percentage of revenues or profits of the casino must also apply for a finding of suitability.

The Commission generally has exercised its discretion to require a finding of suitability of any beneficial owner of 5% or more of any class of voting securities of a licensee or its holding companies. However, under certain circumstances, an “institutional investor”, as defined in the Commission’s regulations, which acquires more than 10%, but not more than 15%, of the voting securities of a company may apply to the Commission for a waiver of the finding of suitability requirement if such institutional investor holds the voting securities for investment purposes only. An institutional investor shall not be deemed to hold voting securities for investment purposes unless the voting securities were acquired and are held in

the ordinary course of business as an institutional investor and not for the purpose of causing, directly or indirectly, the election of a majority of the members of the board of directors of the licensee or its holding company, any change in the corporate charter, bylaws, management, policies or operations, or any of its gaming affiliates, or any other action which the Commission finds to be inconsistent with holding the voting securities for investment purposes only. Activities which are not deemed to be inconsistent with holding voting securities for investment purposes include:

- voting on all matters voted on by stockholders;
- making financial and other inquiries of management of the type normally made by securities analysts for informational purposes and not to cause a change in management, policies or operations; and
- such other activities as the Commission may determine to be consistent with such investment intent.

Charitable bingo operators and suppliers must apply to the Commission for licences and permits to operate in Mississippi.

Daily fantasy sports operators must also register with Commission to operate in Mississippi.

2.3 What restrictions are placed upon any licensee?

The Commission usually places on each licence or finding of suitability a set of standard conditions that include continued compliance with the Mississippi Gaming Control Act and the regulations of the Commission, a date of expiration for the licence (three years) or finding of suitability (nine years) and a requirement that any dispute involving the licence must be adjudicated in courts located within the State of Mississippi.

The Mississippi Gaming Control Act provides for legalised gaming in each of the 14 counties that border the Gulf Coast or the Mississippi River, but only if the voters in the county have not voted to prohibit gaming in that county.

Currently, gaming is permissible in nine of the 14 eligible counties in the state and gaming operations have commenced in seven counties. Traditionally, Mississippi law required gaming vessels to be located on the Mississippi River or on navigable waters in eligible counties along the Mississippi River, or in the waters lying south of the counties along the Mississippi Gulf Coast. However, the Mississippi Legislature amended the Mississippi Gaming Control Act to permit licensees in the eligible counties along the Gulf Coast to establish casino structures that are located in whole or part on shore and land-based casino operations provided the land-based gaming areas do not extend more than 800 feet beyond the 19-year mean high water line, except in Harrison County where the 800-foot limit can be extended as far as the greater of 800 feet beyond the 19-year mean high water line or the southern boundary of Highway 90. Due to another change in the interpretation of the Mississippi Gaming Control Act, the Commission has also permitted licensees in approved Mississippi River counties to conduct gaming operations on permanent structures, provided that the majority of the gaming floor in any such structure is located on the river side of the “bank full” line of the Mississippi River. This permits river county casinos to be built and operated adjacent to the Mississippi River.

The Mississippi Act permits unlimited stakes gaming on a 24-hour basis and does not restrict the percentage of space which may be utilised for gaming. The Mississippi Gaming Control Act permits substantially all traditional casino games and gaming devices.

There are no limitations on the number of gaming licences that may be issued in Mississippi.

The Commission’s regulations require as a condition of licensure that a project include a 500-car or larger parking facility in close proximity to the casino complex, a 300-room or larger hotel of at least a three diamond rating as defined by an acceptable travel publication as determined by the Commission, a restaurant capable of seating at least 200 people and a fine dining facility capable of seating at least 75 people, a casino floor of at least 40,000 square feet and have (or support) an amenity that will be unique to the market, encourage economic development and promote tourism. Such regulations apply to new casinos or acquisitions of closed casinos.

2.4 What is the process of applying for any gambling licence or regulatory approval?

Gaming operators and manufacturers and distributors must apply for a license on the Mississippi Addendum forms available on the Mississippi Gaming Commission website. Persons and entities affiliated with such licensees, such as significant owners and officers and directors, must apply for findings of suitability on the International Association of Gaming Regulators’ Multi-Jurisdictional Personal History Disclosure Form, which is also available on the Commission website, and complete the relevant portions of the Mississippi Addendum. Licence fees and application fees are indicated on the forms and an investigation deposit must be placed with the Commission. A corporate investigation is conducted by the Corporate Securities Section of the Investigations Division, and includes an onsite detailed review of corporate documents and financial statements. A personal finding of suitability investigation is conducted by the Investigations Division, which includes a personal interview of the applicant by Commission agents. Such investigations may take six months or longer to complete. Once the investigations are completed, Commission staff prepares reports and recommendations to the full Commission regarding licensing and suitability. Applicants must make a personal appearance at a scheduled Commission meeting to be approved for licensure or finding of suitability.

The Commission may deny an application for a finding of suitability for any cause that it deems reasonable. Changes in certain licensed positions must be reported to the Commission. In addition to its authority to deny an application for a finding of suitability, the Commission has jurisdiction to disapprove a change in any corporate position or title, and such changes must be reported to the Commission. The Commission has the power to require a licensee or any holding company to suspend or dismiss officers, directors and other key employees or sever relationships with other persons who refuse to file appropriate applications or whom the authorities find unsuitable to act in such capacities. Determination of suitability or questions pertaining to licensing are not subject to judicial review in Mississippi.

Charitable bingo operators and suppliers must apply to the Commission for licences on forms available from the Commission.

Daily fantasy sports operators must register with the Commission on forms available from the Commission.

2.5 Please give a summary of applicable time limits and potential for expiry, review revocation and nullification.

Gaming licences are generally issued for a three-year period. Findings of suitability are generally issued for a nine-year period. Licences and findings of suitability are subject to suspension or

revocation for violations of the Mississippi Gaming Control Act and Commission regulations, subject to due process requirements of notice and a hearing. Revocation is an extremely rare sanction, and most violations result in settlement and payment of an administrative assessment or penalty.

Charitable bingo licences are issued for a term decided by the Commission.

Daily fantasy sports registration has no termination, but the authorising legislation expires on July 1, 2017.

2.6 By product, what are the key limits on providing services to customers? Please include in this answer the material promotion and advertising restrictions.

Gaming equipment and “associated equipment” must be provided by licensed manufacturers and distributors. Other vendors need not be licensed by the Commission to provide goods or services to gaming licensees. However, the Commission may call forward for a finding of suitability any vendor if the Commission has concerns about the vendor or its affiliates. Generally, there are no material restrictions on advertising or promotional activities.

2.7 What are the tax and other compulsory levies?

The licence fees payable to the State of Mississippi for a gaming operator licensee include an annual licence fee of \$5,000, plus a monthly licence fee based upon “gaming receipts” (generally defined as gross receipts less payouts to customers as winnings), and the maximum tax rate imposed by the State of Mississippi is 8% of all gaming receipts in excess of \$134,000 per month. The foregoing licence fees paid are allowed as a credit against Mississippi income tax liability for the year paid. Additionally, there is an annual licence fee payable to the state equal to \$81,200 plus \$100 for each game in excess of 35 games on the casino floor. Moreover, the Mississippi Commission assesses gaming operator licensees with an annual investigative fee which is based on the number of gaming devices on the property. The fees payable to the city and county in which a gaming operator licensee operates is generally a maximum of 4% of all gaming receipts in excess of \$134,000 per month and annual licence fees per gaming device.

2.8 What are the broad social responsibility requirements?

The Mississippi Gaming Control Act calls for the employment of Mississippi residents to the greatest extent possible. The Commission regulations address such social responsibility issues as problem gambling, including self-exclusion procedures, and include restrictions regarding underage patrons.

2.9 How do any AML, financial services regulations or payment restrictions restrict or impact on entities supplying gambling? Does your jurisdiction permit virtual currencies to be used for gambling and are they separately regulated?

Use of credit cards on the casino floor is prohibited. However, ticket-in, ticket-out and certain prepaid debit card arrangements are permitted under the regulations. Virtual currencies are not permitted to be used for gambling in casinos in Mississippi.

3 The Restrictions on Online Supply/Technology Support/Machines

3.1 Does the law restrict, permit or prohibit certain online activity and, if so, how?

The Mississippi Gaming Commission takes the position that all online gaming by persons located in the State of Mississippi is illegal and prohibited.

3.2 What other restrictions have an impact on online supplies?

The Mississippi Gaming Commission takes the position that all online gaming by persons located in the State of Mississippi is illegal and prohibited.

3.3 What terminal/machine-based gaming is permitted and where?

The Mississippi Gaming Commission takes the position that all online gaming by persons located in the State of Mississippi is illegal and prohibited.

4 Enforcement and Liability

4.1 Who is liable for breaches of the relevant gambling legislation?

The Mississippi Gaming Commission and local law enforcement authorities are both responsible for enforcement of the laws prohibiting gaming in Mississippi. The Commission is responsible for enforcement issues against its licensees for violations of the Gaming Control Act or Commission regulations.

4.2 What is the approach of authorities to unregulated supplies?

Mississippi takes an aggressive stance against unlicensed and unregulated gaming in the state and the possession or play of unlicensed and illegal gaming devices.

4.3 Do other non-national laws impact upon liability and enforcement?

No, they do not.

4.4 Are gambling debts enforceable in your jurisdiction?

Yes, gambling debts owed to a licensed casino are enforceable in Mississippi.

5 Anticipated Reforms

5.1 What (if any) intended changes to the gambling legislation/regulations are being discussed currently?

No changes to the Mississippi Gaming Control Act are anticipated. No significant changes to the Commission regulations are anticipated.



Thomas B. Shepherd III

Jones Walker LLP
190 E Capitol St, Suite 800
Jackson, MS 39201
USA

Tel: +1 601 949 4711
Email: tshepherd@joneswalker.com
URL: www.joneswalker.com

With more than 25 years of experience, Tommy Shepherd is a partner in Jones Walker's Business and Commercial Transactions Practice Group. As an accomplished gaming attorney, he is a past President of the International Association of Gaming Advisors (IGA).

Tommy represents major casino companies, Native American tribes, manufacturers, suppliers, and financial institutions regarding all matters relating to the development, financing, licensing and operation of gaming and resort facilities. Mr. Shepherd's clients include many of the largest gaming operators, gaming equipment manufacturers and suppliers, and tribal operators in the world, as well as major private equity and investment banking firms and large commercial lenders involved in secured and unsecured lending, and debt offerings and bond offerings in connection with the development of various gaming projects.

Prior to being elected as President of IGA, he served on IGA's Board of Trustees. For 2017, Mr. Shepherd was also selected as the "Jackson, MS Best Lawyers Gaming Law Lawyer of the Year" and in 2011, as "Lawyer of the Year in Mississippi" by the *Mississippi Business Journal*.



Since its inception in 1937, Jones Walker LLP has grown over the past several decades in size and scope to become one of the largest law firms in the United States. The firm serves local, regional, national, and international business interests in a wide range of markets and industries. Today, the firm has approximately 375 attorneys in Alabama, Arizona, the District of Columbia, Florida, Georgia, Louisiana, Mississippi, New York, Ohio and Texas.

Jones Walker's gaming practice, the largest in the Southeastern United States, provides full-spectrum legal counsel to clients on gaming law. The firm represents all participants in the industry, including casinos, tribes, product manufacturers and suppliers, pari-mutuels, sweepstakes and charities. The firm also represents other parties – such as investors, lenders and vendors – that have gaming-related interests.

Current titles in the ICLG series include:

- Alternative Investment Funds
- Aviation Law
- Business Crime
- Cartels & Leniency
- Class & Group Actions
- Competition Litigation
- Construction & Engineering Law
- Copyright
- Corporate Governance
- Corporate Immigration
- Corporate Investigations
- Corporate Recovery & Insolvency
- Corporate Tax
- Data Protection
- Employment & Labour Law
- Enforcement of Foreign Judgments
- Environment & Climate Change Law
- Family Law
- Franchise
- Gambling
- Insurance & Reinsurance
- International Arbitration
- Lending & Secured Finance
- Litigation & Dispute Resolution
- Merger Control
- Mergers & Acquisitions
- Mining Law
- Oil & Gas Regulation
- Outsourcing
- Patents
- Pharmaceutical Advertising
- Private Client
- Private Equity
- Project Finance
- Public Procurement
- Real Estate
- Securitisation
- Shipping Law
- Telecoms, Media & Internet
- Trade Marks



59 Tanner Street, London SE1 3PL, United Kingdom
Tel: +44 20 7367 0720 / Fax: +44 20 7407 5255
Email: info@glgroup.co.uk

www.iclg.co.uk