



**A White Paper to Future Proof
Malta's Gaming Legal
Framework**

July 2017

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Foreword

The proposed legal reform governing Malta's gaming industry has been on the agenda for the past three years. In keeping with one of our legal functions, our primary aim is to advise the Government of Malta about reviewing and enhancing the existing regulatory regime, in order to enhance current good regulatory practices garnered through years of experience, as well as to ensure that the governance arrangements in force, underpinned by an organised and skilled workforce, are able to support and encourage ongoing improvements and react expeditiously and effectively to technological disruption. Whilst the latter initiatives alone are not enough to obtain a high standard of regulatory outcomes, we believe that the improvements in our governing framework are the catalyst for a sustained and consistent upward regulatory trajectory.

We have come to appreciate that our structure, practices and processes need to reflect the fast moving industry that we regulate, against a backdrop of challenges and political forces influencing the context along the way. We have performed several structural changes within the Authority these past years, aiming to improve the governance arrangements, in conjunction with this policy and legislative review, which, we believe, in turn, shall improve our performance. We have consulted with the industry on various topics, and conducted numerous studies looking into risks and the mitigating measures and further in-depth analysis which may be required, all feeding into this proposed overhaul of the legal framework. Supported by extensive internal work and collective efforts, we remain confident about the strategic direction embarked upon in the best interest of the jurisdiction, whilst believing that this targeted approach will assist us in achieving the highest possible benefits in pursuit of regulatory excellence.

Indeed, Malta's long-standing experience in the regulation of the gaming industry has allowed us to reach this particular juncture, wherein alternative measures in focused priority areas are being proposed so as to meet our regulatory objectives, whilst considering improvements from a policy point of view, in line with Government's public policy standards.

All the regulatory obligations have been assessed and we are proposing technology- and game-neutral forms of licensing gaming activities, where possible and desirable, whilst capturing relevant participants performing critical or essential activities which today are absent from our watch. Our aim is not to overburden the industry: on the contrary, we want to focus on areas that truly matter in order to streamline our supervision. The aim of these proposals is also to modernise the gaming framework and embrace the future through logical and well-thought-out processes, eliminating duplication of requirements and promoting simplification of regulatory burdens to what is strictly necessary and justified, whilst adopting a risk-based approach to compliance, focusing on the areas which require the regulator's attention most. We are striving to narrow the gap between technology and the law and, to this effect, we will be directing our attention on outcomes and objective-based regulation, embracing an evidence-based approach where possible.

Key Thrusts

In addition to the above objectives and approaches being proposed, this overhaul seeks to achieve a regulatory framework which embraces the following key thrusts:

1. Raising the jurisdictional profile of Malta from a regulatory perspective;
2. Empowering the Malta Gaming Authority to be more agile and flexible in its decision-making against checks and balances on principles established in the main Act;
3. Incentivising areas which have been identified as key for the continuing growth of the sector, such business-to-business operators;

4. Enshrining best-in-class player protection and responsible gaming measures and further enhancing alternative dispute resolution (ADR) mechanisms for player disputes;
5. Establishing objective-oriented standards as opposed to prescriptive requirements which hinder innovation;
6. Strengthening further supervision on operators which are deemed to present a higher risk profile;
7. Introducing the concept of administration to protect an operation in distress and, if necessary, to assist the winding down of an operation, thereby protecting jobs and player funds;
8. Decreasing any unnecessary regulatory burdens on all gaming operators established in Malta by streamlining processes and reducing burdens which are not conducive to the regulatory objectives;
9. Widening the Malta Gaming Authority's powers under the compliance and enforcement functions, including through the introduction of the possibility to perform mystery shopping;
10. Moving towards automated reporting, facilitating adherence to regulatory obligations and strengthening the Authority's oversight;
11. Increasing the duration of a gaming services licence to ten years from the current five;
12. Introducing an approval for material gaming supply for suppliers of non-critical services;
13. Streamlining taxation into one flow with two main layers;
14. Exempting business-to-business licensees from gaming tax, thus increasing Malta's competitiveness as a hub for these services providers;
15. Introducing a moratorium on a part of the licence fees for start-ups, subject to certain criteria;
16. Segmenting the Key Official role into various key functions within a licensed activity, requiring approval, for direct scrutiny and targeted supervisory controls, thereby raising the bar for persons of responsibility within a gaming operation;¹
17. Introducing new and more effective processes for criminal and administrative justice, including the allocation of appeals from decisions of the Authority to the Administrative Review Tribunal and the introduction of a distinction between administrative and criminal offences;
18. Streamlining the criminal process to ensure more expeditious and effective sanctioning of illicit operations;
19. Introducing privileged ranking for gaming tax and administrative fees;
20. Improving the protection of player funds via segregation and the power to impose a gaming reserve;
21. Introducing obligations with respect to reporting suspicious transactions as per anti-money laundering obligations;²
22. Introducing new obligations on operators to monitor sports betting and report suspicious bets, in order to prevent match-fixing in line with the efforts being made by the National Anti-Corruption Task Force in which the Authority also participates actively.

These proposals are based on a number of initiatives including:

1. Various public consultations;
2. An economic and financial impact assessment;
3. Regulatory experience;

¹ Further to a consultation paper published by the Malta Gaming Authority in September 2015, entitled 'Revision of the Key Official fitness and propriety requirements as a means to achieve enhanced compliance capability of remote gaming licensees - Consultation Document'.

² To be published with the implementation of the 4th Anti-Money Laundering (AML) Directive

4. Comparative assessments with other regulated markets;
5. Jurisprudence of the Court of Justice of the European Union; and
6. A forward-looking outlook at new potential niche sectors depending on societal risks being posed.

In adopting the above regulatory logic, we have focused on improving regulatory compliance through a number of innovative internal and external approaches to improve our performance. We shall keep on investing in embracing innovation in the way we perform, so that we excel in our regulatory compliance and digital performance to manage the future ahead, whilst maintaining a reliable infrastructure that caters for growth through an adequate regulatory design.

This paper is the first package of proposals seeking your feedback in line with our consultation process. It will be followed by Parliamentary consideration and, with we trust, eventual endorsement. This paper shall be followed by three other specific consultations on responsible gaming standards aiming for an evidence-based approach, on the processes which shall be adopted by the Authority, as well as on proposals dealing specifically with technical requirements, with the aim of aligning ourselves with international best practice approaches wherever possible.

Inevitably, the draft clauses in these proposals are not necessarily in the form they will take when the whole Gaming Bill is presented to Parliament for scrutiny. We will be working on improvements depending also largely on your feedback and we hope that it will bolster Parliamentary understanding and public confidence for this proposed reform.

Finally, on behalf of the Malta Gaming Authority, I would like to take the opportunity once again to thank all the stakeholders in this industry for the continued support and engagement. Integrity and trust in the regulatory regime will, in turn, ensure that there is an ecosystem that enables more economic growth built on the necessary safeguards preventing societal and criminal risks.

Joseph Cuschieri
Executive Chairman

1. Policy Background

The Maltese legislator has always advocated that regulation is better than prohibition in order to effectively control and supervise the gaming services offer and supply to consumers wherever they may be and whatever technological interface they are using to access such services. The latter understanding, against a backdrop of well-informed policy-makers seeking to collaborate and achieve consensus on areas of public interest, has resulted in a better offer, paving the way for informed choices in the consumption of gaming services in a responsible manner.

Our gaming laws require extensive changes in substance and form, so as to improve the supervisory functions of the Malta Gaming Authority. We believe that, by increasing the flexibility of the Authority, without compromising the regulatory principles underpinning its functions, together with due accountability as required by law and in the public interest, we will perform efficiently and effectively.

Increased convergence between the land-based and online sectors has also been the catalyst spurring much-needed changes to outdated processes in regulatory logic, forming the basis of this reform. We aim to achieve a balanced regulatory framework without distorting competition and upsetting the existing ecosystem.

We believe that current effective regulatory principles should be retained, new safeguards should be introduced and unnecessary burdensome requirements eliminated from the licensing and compliance processes. Both providers and consumers of gaming services have rights and obligations which need to be properly set out and regulated for the framework to work effectively.

We believe that a single regulator governing the whole of the gaming sector, having the necessary tools and functions, will capture all forms of gaming within a framework underpinned by a risk-based approach and through various regulatory instruments commensurate with the type of risk posed by the activity.

International dimension

The gaming sector has been experiencing a degree of challenge in the absence of a harmonised regulatory framework under European law. Notwithstanding that the Court of Justice of the European Union (CJEU) has established that the freedom to provide services guaranteed by the Treaty on the Functioning of the European Union applies to gaming services, the CJEU has allowed certain restrictions to be imposed on such freedom when they are justified by imperative requirements in the general interest, such as consumer protection and the prevention of fraud.³ The same Court has also established that there is no mutual recognition of gaming licenses.⁴ However, Malta keeps striving to faithfully follow such European legal principles in its regulatory framework and to align its gaming standards and internal supervisory processes with the common regulatory objectives shared between member states, so as to reduce the administrative burdens of operators wishing to enter other national markets, thereby reducing compliance costs and duplication of requirements wherever possible.

Thus, in the light of an articulated patchwork of national rules and regulations differing from one country to the next, posing challenges in terms of service value, as well as placing compliance burdens on the industry, Malta is proposing a clear and predictable legal framework that could serve as a point of reference for all jurisdictions, as well as for all players serving as a customer base internationally.

³ Case C-243/01 *Gambelli and Others* (decided 6th November 2003).

⁴ Case C-316/07 *Markus Stoß and Others* (decided 8th September 2010).

Strategic repositioning

The sheer size of the gaming sector in Malta means that it is even more critical for the regulator to address the many international and national risks in this sector. It is in this spirit that a complete revamp of the laws on gaming is being suggested, in order to modernise and consolidate the regulatory framework under one Act of Parliament, and to reposition Malta to ensure that the local industry and the continued growth thereof is sustainable and socially responsible, whilst securing and strengthening the status of Malta as an international hub of gaming excellence.

It is foreseen that in order for Malta to continue positioning itself as the jurisdiction of primary establishment, which takes on board operators that are socially responsible, whilst imposing rigorous requirements in this area, it must intensify its focus on regulatory objectives with the resultant inevitable burden (both administrative and financial) on the existent and potential operators.

Current Framework

The law governing gaming today is fragmented into several principal Acts of Parliament, some of which date back to the 1930s. These laws are often conflicting, outdated and too prescriptive. The three main pieces of legislation are:

1. Public Lotto Ordinance, Chapter 70 of the Laws of Malta;
2. Gaming Act, Chapter 400 of the Laws of Malta;
3. Lotteries and Other Games Act (LOGA), Chapter 438 of the Laws of Malta.

Each of the above is complemented by sector-specific subsidiary legislation, as well as by instruments issued by the Malta Gaming Authority. This leads to duplication of requirements, both at a licensing and compliance stage, as well as inconsistencies across the regulatory framework amplified below.

Land-based Sector

The three principal Acts mentioned above all deal in some way or another with the land-based gaming sector in Malta. Often these are overlapping and have certain loopholes that can serve to undermine proper regulation. The Public Lotto Ordinance, which establishes the Department of Public Lotto and dates back to the 1930s, was intended to be repealed by the Lotteries and Other Games Act; however, it remained in force. Following the privatisation of the national lottery, Malta's accession into the European Union, and the emergence of gaming through distance communications, most of the provisions of this law have become unenforceable.

Moreover, the Gaming Act, which regulates land-based casinos, has not adapted well to industry and technological developments, and jars with the more recent Gaming Devices Regulations⁵ which regulate gaming parlours, as well as the Remote Gaming Regulations⁶ under which online gaming is regulated. The convergence between online gaming and land-based gaming in terms of product and technology used, also means the two sectors have become hard to distinguish whilst currently being regulated in an entirely distinct manner by these starkly contrasting pieces of legislation.

A further aspect of land-based gaming which has, so far, fallen outside the Malta Gaming Authority's regulatory oversight is on-track betting within approved racecourses in Malta. Currently, this activity falls under another law enacted in the 1930s, the Racecourse Betting Ordinance (Chapter 78 of the Laws of Malta), dealing with the management of racecourses as well as with the oversight of the

⁵ Subsidiary Legislation 438.07.

⁶ Subsidiary Legislation 438.04.

betting held within. This proposal shall seek to regulate, through licensing, on-track race betting bringing it under the supervision of the Malta Gaming Authority.

Remote Gaming

In 2004, Malta adopted a pioneering regulatory framework for online gaming which demanded a high standard of player protection and measures combating criminal infiltration, whilst being attractive to businesses. Notwithstanding that it stood the test of time in terms of efficacy and relevance, certain prescriptive provisions are now obsolete in the context of current gaming industry practices and the way business models have evolved. In particular, the current licensing system, which includes multi-tier Classes of Licences for different games, as well as multiple licences of the same class for games provided by different business-to-business (B2B) providers, is impractical, both for the Malta Gaming Authority, as well as, and above all, for the industry at large, whilst at the same time not providing any form of value-added in terms of regulatory oversight.

In view of the above, the provisions of the Public Lotto Ordinance, the Gaming Act, the Lotteries and Other Games Act, as well as specific provisions in other specific legislation will need to be repealed or replaced to avoid conflicting requirements and provide more legal clarity.⁷

2. Proposed Gaming Legal Reform

Legal Structure

The proposed legal structure underpinning this framework will include a primary Act of Parliament – the Gaming Act – which shall be the governing framework legislation regulating gaming services in and from Malta. The proposed Gaming Act will empower the competent Minister to publish regulations and grant powers to the Malta Gaming Authority to publish Directives⁸ and various other regulatory instruments as required. The Authority shall also have the power to issue rulings as well as guidelines and policies. With the latter tools, the Malta Gaming Authority would render itself more transparent, consistent and would be consulting with the industry, where necessary.

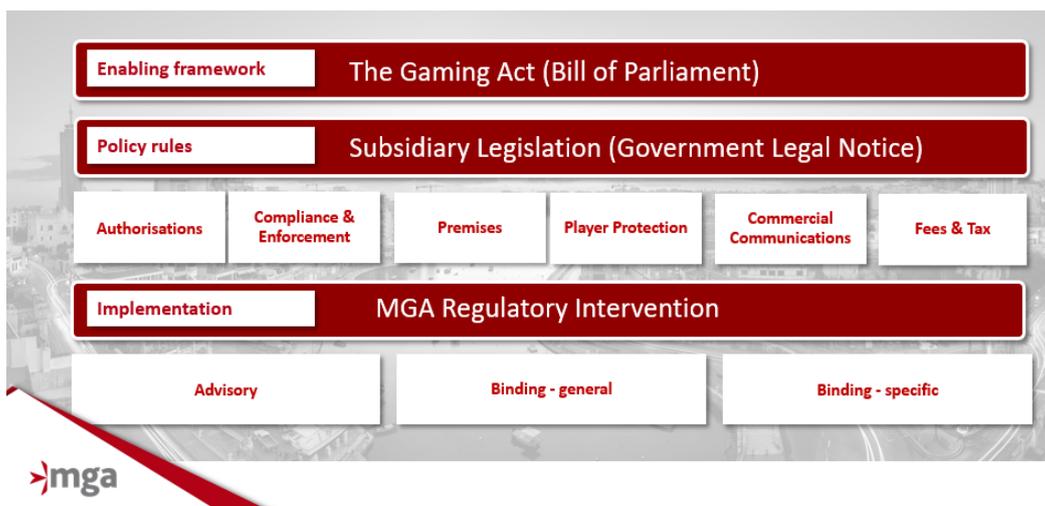


Fig. 1 – Regulatory levels

⁷ Part II Bill of Parliament.

⁸ Directives exist under the current regime and have proven to be the ideal tool for the regulator to ensure timely and flexible interventions, especially in relation to technical specifications and processes.

The Malta Gaming Authority will be flexible to adopt sound regulatory logic through different interventions and approaches for specific categories of games depending on the risks posed to consumer protection and integrity. The regulatory scope of gaming services under the new legislation shall be wider and more coherent. This will not mean that all activities falling under the Malta Gaming Authority’s governance remit will be subjected to a licensing requirement. While new gaming activities may indeed require an approval, certain games, such as pure skill games with prize, will not; they may, however, be governed by a set of requirements that will be controlled *ex-post* to promote responsible game play. This will allow the Malta Gaming Authority to adopt a softer approach where required, that is considered proportionate to the degree and extent of risk such games may pose to consumers.

This model is underpinned by a risk-based design requiring the Malta Gaming Authority to monitor risk effectively and dynamically, and therefore new reporting facilities will be adopted to cater for improved risk management processes. The Authority will also be required to periodically review the regulatory performance of the sector and indeed the framework itself, with a view to advising Government on the attainment of its objectives which – despite the business-friendly and innovative structure and approaches – remain at the pinnacle of the Authority’s interests.

The Malta Gaming Authority is accommodating simplification and reduction of regulatory intervention from the burdensome processes which are prevalent today. The single licence will differentiate only between B2B activities and business-to-consumer (B2C) activities in a more corporate fashion. A second tier of approvals will address the systems, game types, and channels used under one proposed corporate licence. Prior approval shall be required only when the change or addition significantly changes the operation, such as the addition of a new game vertical given that this may affect the operational structure and/or the risk posed by the gaming operation. We are also considering different procedural options for new applications and renewals with the aim of facilitating and considerably improving the time to market from application to approval stage.

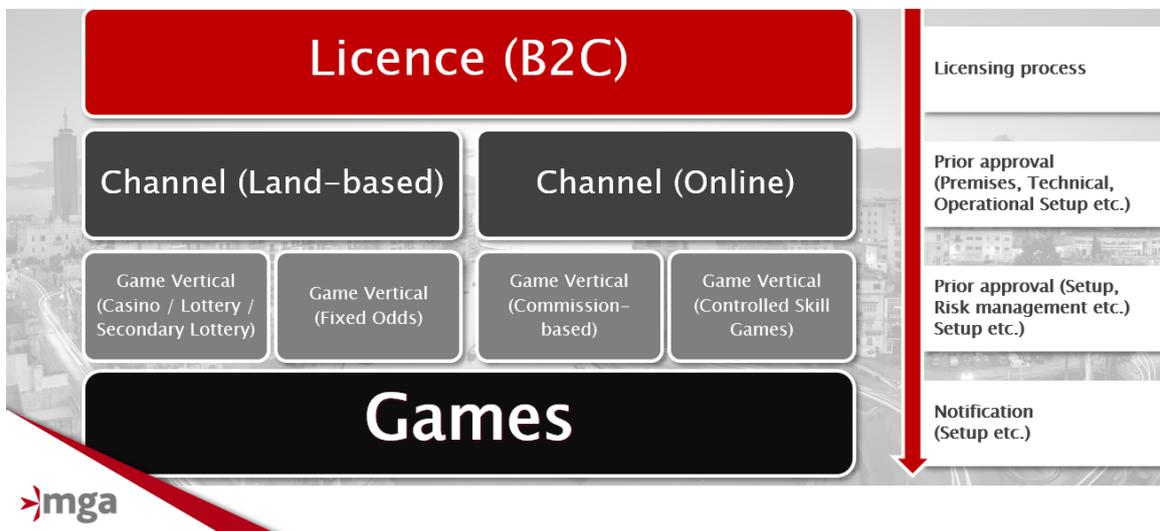


Fig. 2 – B2C licence and approval processes

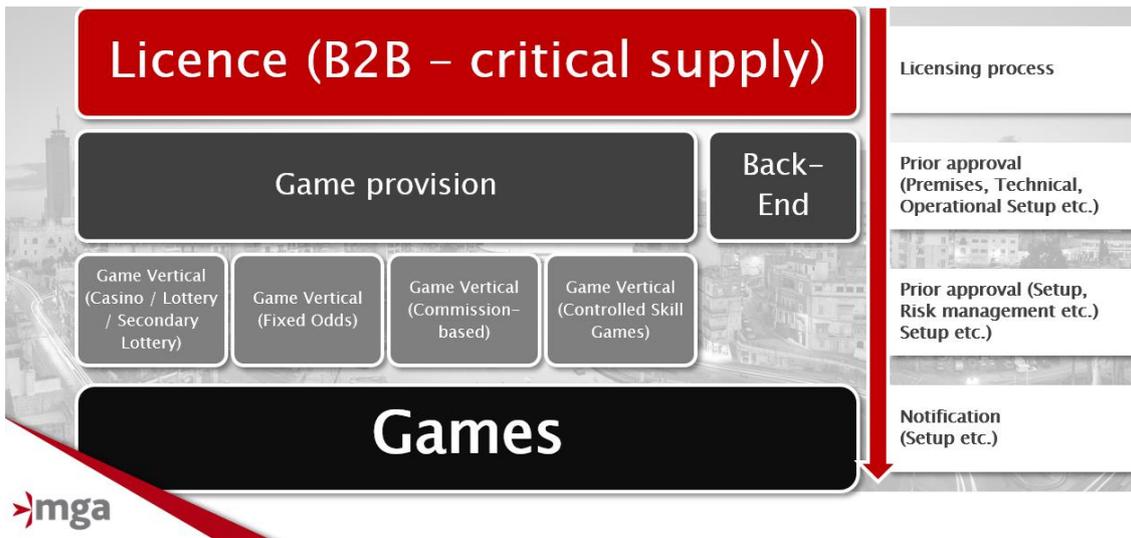


Fig. 3 – B2B licence and approval processes

Governing Framework

The proposed law seeks to clarify, elaborate and enhance the Authority’s governing role, its policy objectives as well as its functions so as to attain a piece of legislation that is more principle-based, leaving an appropriate level of prescription where required, with the aim of allowing a degree of flexibility and regulatory logic in meeting the policy objectives in such a complex and rapidly changing regulatory environment.

The principal Act is divided into various parts dealing with the regulatory objectives and governing principles, the establishment of the Authority, its administration and financial provisions, together with important subjects falling under its governance such as minors, vulnerable persons and players. The Act also tackles enforcement, with the Third Schedule listing the major breaches which are deemed to be offences of a criminal nature. The latter part warrants particular focus in view of the fact that we have sought to reclassify offences to be considered as criminal *ipso jure* and those to be considered as administrative in nature, leaving the possibility of the latter offences to be converted into criminal breaches, should the administrative remedy not be satisfied. The Act also introduces new concepts like the appointment of an administrator and administrative review.

Key regulatory objectives

The key regulatory objectives are enshrined in Part II of the proposed Gaming Act as follows-

1. To ensure that regulation is carried out in the public interest;
2. To ensure that gaming is free from crime and is not used as a source or an instrument of crime;
3. To ensure that gaming is conducted in a fair, safe and transparent manner;
4. To ensure that the interests of vulnerable persons are adequately safeguarded;
5. To promote the development of a sustainable gaming sector and economic growth;
6. To promote the development of Malta as a centre of excellence for gaming-related competences and skills;
7. To promote responsible innovation in the gaming sector.

Governing Principles

The governing principles to be adopted in the pursuit of the above objectives echo European principles regarding:

1. Proportionality in the type of regulatory action to be undertaken;
2. Non-discriminatory, transparent and consistent approaches;
3. Timely and reasoned action;
4. Non-duplication of requirements and controls without prejudicing the above-mentioned regulatory objectives;
5. The adoption of a risk-based approach to maximize efficiency and effectiveness;
6. Consultation with stakeholders; and
7. Clarity in case of any conflict, where the public interest should prevail over economic interests.

The Authority shall also be empowered to deviate from these principles should it be objectively justified by an overriding reason related to public policy, public security, public health or protection of the environment which shall always prevail.

The above objectives are strategically broad, implying a greater deal of regulatory discretion in the interpretation and achievement thereof. We believe that the sector is dynamic enough to call for such deliberate trust to apply finer details in lower regulatory instruments as required. The latter should be seen in the light of the principles for good governance established in the law to ensure there is competency and a solid structure to manage such discretion effectively. The Authority remains committed in keeping within its functions as prescribed by law and shall be monitored through open and transparent practices to remain accountable, whilst being able to be taken to task with the judiciary should it exercise its powers beyond what is intended and permitted in the Act.

Functions

We have revisited the Authority's functions and widened them to ensure the Authority can effectively meet the regulatory and governmental policy objectives. The proposed functions and powers⁹ are complementary and will ensure a proper functioning of the regulatory regime. We have provided for institutional arrangements to ensure transparency, accountability and avenues for challenge as required. Should any of the functions give rise to a conflicting situation, there shall be structural separation down to the separation of teams and reporting lines as per the Authority's internal policies and procedures. Moreover, there will always be oversight and review of the regulatory activities being conducted in accordance with public administration legislation currently in force.

Thus the Authority's functions have been widened and may be summarised as follows:

1. To regulate, supervise and review all activities regulated under the law as well as the performance of the gaming sector;
2. To promote the general interests of players;
3. To inform and guide the public on matters related to this sector;
4. To ensure gaming services are advertised fairly and responsibly in accordance with the law;
5. To receive and investigate complaints by players;
6. To facilitate the resolution of disputes between players and players or operators;
7. To monitor the gaming sector and to undertake the necessary studies and research;
8. To consult with the public on general or specific matters;
9. To collect data as required to perform its functions and reach its regulatory objectives;
10. To develop its strategy and action plans to achieve its regulatory objectives;
11. To advise the Government of Malta generally on matters related to this sector;
12. To establish minimum standards and inquire into the suitability of persons involved in this industry;
13. To ensure high standards of conduct and management within the gaming sector;

⁹ Gaming Act Part III, Article 7.

14. To prevent, detect and ensure the prosecution of any offence against the Act or regulations issued there under;
15. To collaborate with other local or foreign entities and authorities;
16. To ensure compliance with international obligations;
17. To pursue common standards within the gaming sector;
18. To foster advancements in the educational sector relating to the gaming industry;
19. To issue regulatory instruments so as to regulate the industry effectively;
20. To establish, impose and collect administrative fees and fines;
21. To collect gaming tax;
22. To impose sanctions and penalties as it is empowered under the law.

In line with best practice and international principles, the independence of the Authority as a regulator has been retained leaving clear demarcation lines on relations with Government and the competent Minister as required.¹⁰ The advisory role of the Authority, in the light of its experience in operational rules has been retained, allowing the regulator to enjoy a pivotal role in developing government policy on gaming services, whilst obliging regulatory impact analysis and related consultations in the development of new regulatory instruments and gaming niche sectors moving forward.

The Authority remains bound to continuously monitor and evaluate the performance of its activities. To this effect, the formation of the Audit Committee has been elevated through statutory provision¹¹ so as to assist the Malta Gaming Authority Board and provide oversight over all processes and internal controls within the Authority, in the pursuit of good corporate governance and transparency, as well as the continued compliance of the Authority, in keeping with its functions, objectives and obligations under the rule of law.

The current Board composition has been retained, primarily entrusting the Malta Gaming Authority's Board of governors to set the strategic direction, develop policy and monitor the regulatory performance of the Executive. It remains entrusted with governance and risk management to ensure the Authority complies with the law, remaining accountable at all times. The First Schedule of the Act spells out the governing provisions related to the affairs of the Board with minimal substantive changes to current procedure.

Administrative Review

The proposed Act introduces direct remedies via an administrative review process¹² so that regulated entities and persons may appeal decisions through a judicial process in line with natural justice principles. Such right of appeal shall be limited to the grounds established in the law and the Authority may rescind a decision as a result of such appeal. This highlights the commitment to render the regulator more accountable, whilst improving transparency in the way it conducts its administrative functions with the regulated and interested subjects. To this end we are committed to publish key operational policies and guidance covering compliance, enforcement and decision reviews.

Enhancing Player Safeguards

We propose to champion this area and increase research and outreach to problem gamers in a more coherent and systematic fashion. The study of behaviours in this field is another way to determine appropriate forms of intervention to amplify further the Player Protection Regulations being proposed horizontally. The winding down of the Responsible Gaming Fund and the Responsible Gaming Foundation overseeing it would be a consequence of this new strategy. The Player Support Unit at the

¹⁰ Gaming Act Part III Articles: 11 & 12.

¹¹ Gaming Act Part III Article: 10.

¹² Gaming Act Part IX Articles: 43-46.

Malta Gaming Authority will also be registered as an ADR service provider which may be made use of by all players in line with the new European Directive transposed into Maltese law. The latter requires knowledge and experience and the functions of the Foundation could be in conflict with the latter obligatory requirement or lead to confusion as to the supervisory entity on this front, given that the Authority's Player Support Unit is also entrusted with assisting problem gamers that seek the Authority's assistance. The roles currently undertaken by the Foundation will therefore be continued by the Malta Gaming Authority, mainly by the existing player support function, thereby centralising all efforts and establishing our programmes on effective and targeted problem gaming and responsible gaming issues.

We believe players should be placed at the heart of every gaming policy. Due focus should be directed towards creating obligations that should accompany a set of player rights currently availed of by players as consumers of gaming services. An effective regulatory framework should create an environment which channels players to a regulated offer that is safe, competitive and regulated in line with European law. Moreover, the regulatory framework should prevent players from opting for unregulated offers that do not adhere to European consumer protection standards and do not abide by responsible gaming, standards on game fairness, anti-fraud and anti-money laundering rules.

We have focused on the following main thrusts –

1. Responsible gaming measures;
2. Treating cheating as an offence;
3. Illegal play;
4. More controls to preclude players from engaging in money laundering;
5. Protection of player funds;
6. Security of player data;
7. Ethical and responsible marketing;
8. Fairness of the games;
9. Player satisfaction and support; and
10. ADR services.

External Relations

The Authority remains committed to coordinate its functions both with counterpart regulators, as well as government entities on a local front for cooperation, to eradicate gaps and avoid duplication when regulating the same businesses for different policy objectives. We are aiming for targeted coordination for regulated activities to reduce burdens while improving compliance, through memoranda of understanding detailing the respective roles and cooperation areas. Relevant focus groups shall also be set up jointly with the relevant entities involving interested stakeholders. The latter arrangements being lined up depend on the opportunities identified and the type of working relations established within the respective fields. We have also amplified and widened the possibilities to cooperate with other entities internationally.

Authority Funding

The current provisions relating to source of funds of the Malta Gaming Authority have been retained. We believe that these provisions protect the Malta Gaming Authority's independence, keeping the regulator's efficiency and effectiveness a priority. The Authority's budgets shall continue to require Government approval, enabling us to perform our functions and reach our objectives successfully. The latter process remains transparent and efficient in line with that of other Authorities.¹³

¹³ Gaming Act Part VIII Articles- 35-42, Gaming Tax Regulations, Gaming Licence Fees Regulations.

Tax and administrative fees have been revised in consultation with Government, with the policy objective outlines and with regulatory cost recovery in mind. The Authority shall remain well positioned to perform its obligations at law, as well as that imposed by other legislation in its supervisory capacity. Independence and self-sufficiency of the regulator from Government was and remains a paramount policy objective and, in this light, the financing of the Authority has also given due consideration to unanticipated court actions in the public interest that might arise and require financing. The Authority retains its right to fund other entities, so as to deliver activities related to its regulatory objectives, particularly in the areas of research, communications, information and education. The key funding principles regulated at law remain as follows:

1. The Authority is to meet its expenditure from its Revenue;
2. The Authority is in control of its finances;
3. The Government may make advances to the Authority;
4. The estimates and expenditure of the Authority for its financial year shall be subjected to the Minister's approval;
5. The Authority is bound to keep proper books and records in respect of its operations through a statement of accounts for every financial year which shall be audited by auditors appointed by the Board;
6. The Authority's books and accounts are subject to scrutiny by the Auditor General and the National Audit Office Act¹⁴ as required; and
7. The Authority shall, after the close of each financial year and through the competent Minister, submit a copy of its audited financial statements together with an annual report to the House of Representatives in Parliament.

Social Causes Fund

The proposal is to wind down the existing Responsible Gaming Fund under the auspices of the Responsible Gaming Foundation, and to create a Social Causes Fund under the auspices of the Ministry responsible for Finance which mirrors and improves upon the current Good Causes Fund. The purpose of the latter fund shall be to finance endeavours related to responsible gaming and other good causes. The proposal is for the Fund to be administered by an ad hoc committee, with a transparent and coherent system of funding tied to pre-defined parameters established under the new Social Causes Fund Regulations.

The eligibility criteria shall be published and strictly adhered to, transparency which shall be ensured by the presentation of annual audited accounts, accompanied by summary report of projects and causes funded, to the House of Representatives.

Licensing Framework

The licensing regime shall work through a horizontal approach that focuses on regulatory objectives and outcomes. The key regulatory drivers are:

1. Gaming Authorisations Regulations (Annex 3);
2. Gaming Compliance and Enforcement Regulations (Annex 4);
3. Gaming Commercial Communications Regulations (Annex 5);
4. Gaming Player Protection Regulations (Annex 6);
5. Gaming Premises Regulations (Annex 7).

¹⁴ Cap 396 Laws of Malta.

Remote Gaming	Gaming Parlours	Commercial Tombola	Land-based Casinos	National Lottery
Due Diligence	Due Diligence	Due Diligence	Concession	Concession
Player Registration	Player Registration	Player Registration	Due Diligence	Licence
Licensing	Licensing	Licensing	Player Registration	Lotto Booths
Compliance	Compliance	Compliance	Licensing & Compliance	Game Rules
Player Protection	Player Protection	Player Protection	Player Protection	Compliance Requirements
Specific Issues	Specific Issues	Specific Issues	Specific Issues	Suspension & Cancellation
Advertising	Advertising	Advertising	Advertising	Taxation

Fig. 4 – Current vertical legislative approach

Authorisations	Compliance and Enforcement	Player Protection	Advertising
Due Diligence	Compliance Review	Responsible gaming objectives	General Obligations
Licence Application	Formal Investigation	Minimum information	Responsible Gaming Messages
Licence Qualifications	Suspension & Cancellation	Protection of Player Funds	Minors and Vulnerable Persons
Licence Term	Other Enforcement Measures	Player Support Unit	Sponsorships
Licence Renewal	Enforcement Powers	Player Complaints	Misleading and Unfair Schemes
Licensing Principles	Specific offences	Other ADR	Exemptions
Sector-specific Issues	Sector-specific issues	Sector-specific issues	Specific enforcement

Fig. 5 – Proposed horizontal legislative approach

Mutual Recognition Principle

Along the years, Malta has always maintained the position that, notwithstanding the absence of a specific EU legal instrument on online gaming, the freedoms enshrined in the European Treaties, namely free movement of services and freedom of establishment, are applicable. Thus, Malta has held the position that a gaming licence issued in any European Member State enjoying the freedom to provide services should be deemed equivalent by any other Member State. Furthermore, the current legislative framework provides for an *automatic* mutual recognition principle; hence operators in possession of a valid and equivalent gaming licence issued by another European Economic Area (EEA) Member State, may operate freely in and from Malta. Further to a repositioning strategy exercise and a risk assessment over the gaming sector, the following framework is proposing an amendment to this rule, whereby the Malta Gaming Authority shall recognise an equivalent gaming licence in accordance with this principle. However, such recognition shall not remain automatic. Hence operators shall be obliged to notify the Malta Gaming Authority with their gaming operation and the Malta Gaming Authority may maintain adequate controls over such operators, who are based in Malta, in view of reputational risks to the jurisdiction. The Malta Gaming Authority will require information to be collected from such EEA regulated operators in line with its licensees' collection of data under its supervisory powers so as to operate a consistent and systematic gaming policy on the basis of valid and justifiable reasons as well as proportionality of the measures being pursued. The latter case, we believe, is an example of non-duplication and mutual trust in the context of the free movement of gaming services. Malta is to continue taking full account of its fellow Member States' legal regimes and to seek to resolve any differences by collaborating bilaterally or multilaterally, in putting into effect the aims of the Union.

The Regulations reflect the European principle of mutual recognition of authorisations as the current law provides. However, as already explained above, we are proposing to introduce a recognition notice for any gaming service or gaming supply which seeks to operate in and/or from Malta in virtue of an authorisation for such service or supply granted by a Member State of the European Union or EEA or a state recognised to have safeguards equivalent to Maltese law. Such recognition notice is subject to a yearly fee, and may also be revoked.

Corporate Licence

Key changes also include that a licence holder must be any person established in the EEA, and such persons may hold a licence for themselves or for a corporate group¹⁵. Thus, if a licence is issued for a corporate group, the approved members of the corporate group shall be jointly and severally considered as the licensee.

Licence Term

The licence term has been extended up to 10 years, subject to certain games offered under a Government concession which could have a shorter term. The Regulations also provide for a licence with limited duration, leaving the term open for the Malta Gaming Authority to establish, provided that no more than four of these limited duration licences may be issued in any one calendar year.

¹⁵ 'corporate group' means a group of bodies corporate all established in the European Economic Area or otherwise structured in a manner which provides equivalent safeguards, in which a parent entity exercises control to the extent of over 90% over other bodies corporate in the same group, whether by way of shareholding or voting rights.

Government Concession frameworks

Currently in order to operate the National Lottery games, or to open and operate a land-based casino in Malta, the applicant requires a Government Concession in order to qualify for a gaming licence for said activities.

National Lottery Games

The proposal under the new regime is to hold off the transition of the National Lottery operation up until it expires in June 2022, by transposing the relevant articles currently regulating it under the new framework. This means that the existing National Lottery Concessionaire¹⁶ may continue to operate under the existing framework in order to respect the concession terms. Furthermore, we have retained Government's power to issue a new concession through an open call to operate the National Lottery games, subject to a licence being awarded by the Authority, once the existing concession expires.

Land-Based Casinos

The existing Government concession system required for a terrestrial casino licence shall also be transposed under the new law, respecting the concession expiry terms in force.

Authorised Gaming Activities

All gaming services and the supply thereof in and from Malta shall be governed by the proposed licensing framework, providing for varying degrees of regulatory intervention. The licensing parameters shall be established in line with the governing principles and in furtherance of the regulatory objectives established by the Act. Notwithstanding the latitude granted by the law, underpinned by an objective-based approach, the Authority may rely on more robust criteria and wider discretionary powers to refuse a licence application, balancing any risks posed proportionately.

In keeping with regulatory best practice approach principles, the Authority shall be bound to consider, and where possible, avoid duplicating procedures and controls already carried out by the Authority itself or by a competent authority in another EEA jurisdiction, as long as such other procedures and controls have been conducted within a reasonable time frame from the assessment of the application at hand.¹⁷

We are also proposing to go a step further to eradicate bureaucracy and unnecessary burdens and have proposed to give leeway to the Authority, on a case by case basis, to consider procedures and controls already approved or carried out by another competent authority in any other jurisdiction which the Malta Gaming Authority considers to provide adequate safeguards, and which are equivalent to those provided under Maltese law. The latter proposed controls may still be rejected if deemed to be unacceptable. The Authority shall aim towards simplified regulatory intervention, and where possible, adopting a risk-based approach. Hence prior approvals are contemplated by the Regulations only for changes deemed to be critical, yet retaining flexibility to allow for cases of simple notification where deemed sufficient. We may positively discriminate in the way we impose requirements based on justified considerations by adopting a risk-based approach.

¹⁶ By virtue of the existing concession, the operator has the right of use for the Government trademarks and goodwill of the three National lottery games namely: Lotto, Super 5 and the Grand Lottery. They also have been permitted to offer additional games under their licence on a non-exclusive basis.

¹⁷ Regulation 14, Gaming Authorisations Regulations.

An authorisation¹⁸ may not be assigned or transferred and may be granted, whether in the form of a licence or approval or in such other manner as may be prescribed, to approve a:

1. Gaming Service;¹⁹
2. Gaming Supply²⁰ (critical²¹, material²² or ancillary²³);
3. Key Function;²⁴
4. Gaming Premises;
5. Game;
6. Gaming Device;
7. Person (holder of a licence, junket leader); and
8. Other approvals (Cruise Casinos, Low Risk Games).

We shall be widening our regulatory remit with respect to relevant subjects performing critical functions, whilst ensuring that adequate checks are conducted to confirm that approved persons are conducting the activities as notified. We will ensure that all activities requiring a licence shall be subjected to the level of oversight they deserve and that intermediaries are only carrying out the described activities.

All channels and player interfaces, including physical premises and gaming devices or systems, require an approval by the Authority, unless they are exempt from such a requirement.²⁵ The Regulations stipulate the eligibility criteria for each authorisation required.

¹⁸ “authorisation” means a licence, approval, certificate, recognition notice or similar instrument issued by the Authority authorising a person to provide a gaming service, gaming supply or a key function, and “authorised person”, “authorisation holder”, “authorised game” and “authorised gaming premises” shall be construed accordingly.

¹⁹ “gaming service” means making a game available for participation by players, whether directly or indirectly, and whether alone or with others, as an economic activity.

²⁰ “gaming supply” means a supply, directly or indirectly, of a good or service, in relation to a gaming service, which is either a material gaming supply or ancillary gaming supply, but does not include provision of a key function.

²¹ “critical gaming supply” or “critical supply” means a material supply which is (a) indispensable in determining the outcome of game or games forming part of the gaming service, and/or (b) an indispensable component in the processing and/ or management of essential regulatory data.

²² “material supply” or “material gaming supply” means a gaming supply of such importance that any weakness or failure in its provision could have a significant impact on the operator’s (a) ability to meet the operator’s obligations under the Act and all applicable regulatory instruments or (b) to manage the risks related to such supply; or (c) to continue in business and the term “material supply” shall include a “critical supply”.

²³ “ancillary gaming supply” or “ancillary supply” means a gaming supply other than material supply.

²⁴ “key function” means an important function, role or task carried out by a person in connection with a gaming service or a gaming supply, as may be prescribed by or under any regulatory instrument.

²⁵ Regulations 18 & 19, Gaming Authorisations Regulations.

Licence categories

B2C Licence	Gaming Service Licence	<p>Activity:</p> <ul style="list-style-type: none"> • Offering, provision, or operation of a gaming service; • Hosting by a person in public premises a gaming operation, making available for use a gaming device or gaming system therein.
B2B Licence	Critical Gaming Supply Licence	<p>Activity:</p> <ul style="list-style-type: none"> • Supply and management of material elements of a game; • Supply and management of software, whether as a stand-alone or as part of a system, to generate, capture, control or otherwise process any essential regulatory record; • Supply and management of the control system; • Supply and management of a game to a person.

Other Authorisations & Permits

- Gaming Premises
- Gaming Devices
- Material Gaming Supplies
- Junkets
- Key Function
- EEA Regulation Notice
- Low Risk Games Permit
- Amusement Machines Notification
- Cruise Casino Permit

Outsourcing

The Authority is conscious of the fact that outsourcing is integral to the operational setup of most gaming business nowadays, whether for advantages of cost or specialisation or for any other reason which the operator may deem relevant. The nature and complexity of outsourcing arrangements may result in increased regulatory risk and therefore certain situations may warrant some form of intervention by the Authority to ensure that compliance is not undermined. It is in this context that the scope of regulation of business-to-business activities has been widened. Supplies which are deemed to be critical to the delivery of the gaming services have been considered to be licensable activities owing to their intrinsic importance from a regulatory perspective. This includes the supply and management of control and back-end systems controlling, processing or capturing regulatory data.

Supplies which are termed “material” but not “critical”, in the nomenclature used in the legislation, concern services that, albeit not part and parcel of the gaming service itself, are of utmost importance for an operator to adhere to its legal obligations. We have deemed a less intrusive form of regulatory oversight to be sufficient on such matters given that the ultimate responsibility towards the gaming legal framework remains with the licensee; however, as a supervisory body we are cognisant that the Authority must still ensure that such services, when outsourced, are performed in a manner which is consistent with the law and our regulatory ethos. Hence, the suppliers of such services require the approval of the Authority, on a case-by-case basis, for their services to be availed of within our regulated environment. In order to facilitate compliance with this requirement, such suppliers may also seek a longer-term authorisation by the Malta Gaming Authority upon satisfying the criteria applicable to the service provided, namely a material supply certificate.

Effectively, persons offering a gaming service to a licensee or other authorised person, which supply is considered to be material in line with the following list, may request certification from the Authority to facilitate the supply thereof, giving the Authority visibility of such supplies considered to be supplementary to the activity being licensed-

1. Manufacturing, assembling, placing on the market, distributing, supplying, selling, leasing or transferring a gaming device;
2. Providing risk management services for the operation of a licensable game;
3. Providing event and odds management systems, including content provision for betting;
4. Providing fraud management services for the operation of a licensable game;
5. Holding or managing player funds;
6. Providing services relating to customer due diligence;
7. Providing services related to player identity verification;
8. Providing co-location services and other managed information technology services; and
9. Providing back-up and disaster recovery services.

With respect to arrangements made for the marketing and advertising of a gaming service, the Authority considers that when the service of the outsourcing service provider is limited solely to such activities, the regulatory risk is limited to matters relating to adherence to advertising laws. Given that the responsibility for compliance with such laws rests with the licensee, the Malta Gaming Authority considers that there is no scope for additional involvement as a regulator. On the other hand, where the outsourcing service provider also conducts other activities related to the gaming service, intervention may be necessary. Where the outsourcing service provider processes payments and handles player registration, the service provider shall itself be deemed to require a B2C licence, unless such services are being carried out solely on behalf of the licensee, in which case they shall be deemed to be covered within the remit of the licensee’s authorisation. The service provider would, in the latter case, require approval of the service as a material supply.

Types of Games

The regulatory framework covers games of chance, games of chance and skill and skill games. The Authority shall be guided by a list of criteria²⁶ in determining whether a game is a skill game or otherwise, with the onus of proving whether a game is one based on skill or otherwise being placed on the proponent of such game. Such classification by the Authority must be issued via a ruling or binding instrument to ensure consistency and transparency.

The Malta Gaming Authority may decide to classify a game as licensable or exempt, as well as to determine whether a game is a skill game or a controlled skill game, with the latter warranting an *ad*

²⁶ Sixth Schedule –Gaming Authorisations Regulations.

hoc licence, through rulings or other binding instruments. The Regulations also classify ‘other games’²⁷ under Part VIII of the Gaming Authorisation Regulations, laying down a softer regulatory approach in view of the intervention deemed necessary.

Other Games

Non-profit games, tombolas and advertising lotteries will be classified under this new framework as Low Risk Games. Rather than requiring a licence, such games will be required to acquire a Low Risk Games Permit, and subject to the relevant parameters, will be exempt from paying gaming tax.

There will be three categories of low risk games:

1. Non-profit games, where 90% or more of the net proceeds generated will be forwarded for charitable, sporting, religious, philanthropic, cultural, education, social or civic purposes;
2. Commercial communication games, where there is no stake, but one is able to win prizes limited to a maximum of €50,000 per event, €100,000 per month and €500,000 per year;
3. Limited commercial communication games, where there can be a stake of not more than €5 per person and a prize of not more than €250 limited to a maximum of €5,000 per month and not more than €50,000 per year.

These games shall be limited as per criteria listed in the Fifth Schedule of the Gaming Authorisations Regulations. There shall also be a special permit to be granted to cruise casinos subject to certain conditions currently in force.²⁸

The requirement to obtain a licence to operate an amusement machine shall be removed under the proposed framework. Notwithstanding this exemption, amusement machines shall be registered with the Malta Gaming Authority against a nominal fee, to retain oversight and curb abuse, given past incidents in this sector.

Land-based gaming premises

The Authority is conscious of the ever-increasing convergence between the various channels of delivery of a gaming service. Nevertheless, certain additional controls are required with respect to land-based gaming premises, namely premises in which the gaming service is directly offered to the end-customer. The Gaming Premises Regulations deal with physical player interfaces within dedicated premises, having access controls and self-exclusion mechanisms, together with limitations on the locations thereof. The current restrictions with respect to the operation of gaming parlours and casinos shall be retained, including the number of devices which can be included in casinos, age restrictions, opening hours, and the technical restrictions on the games in terms of maximum stake and win, as per public policy direction.

Key functions

The Authority’s objective in this area is generally to ensure that an operator has sufficient compliance capability and competence allocated to the right official/s that will, in turn, enhance the systemic compliance performance of Malta Gaming Authority licensees. It is also undisputed that the Maltese gaming industry has evolved significantly and most operations, especially remote gaming operations, have become complex and multi-jurisdictional. This may be the reason or indeed the effect of the changes in the global and European regulatory environments. As a primary gaming jurisdiction, Malta is not immune to these changes as it seeks to take a business-friendly and transparent, yet proactive, innovative and objective compliance-centric approach. On its part, the Malta Gaming Authority is

²⁷ Low risk games, cruise casinos and amusement machines.

²⁸ Regulation 30, Gaming Authorisations Regulations.

progressively restructuring its internal processes, strategically aiming at simplifying and reducing avoidable administrative burdens without compromising, but continuously enhancing, its jurisdictional standing in the gaming world.

Today, the overall compliance supervision and monitoring is allocated to the Key Official function. With a view to facilitating our compliance procedures, and drawing upon past experiences, the Authority is identifying a number of key functions that should be notified to the Authority, with the person or persons conducting such functions necessitating the Authority's approval in order to perform them. In the light of the important roles enjoyed and the responsibilities that ensue from these highlighted roles, the Authority requires direct contact with such personnel responsible for what we deem to be critical roles for the overall regulatory compliance of a licensee. Persons exercising a key function within a licensee shall be bound to be readily available for the Authority when necessary. Whilst it is not our intention to scrutinise the competence of every single function, non-adherence or continued shortfalls shall be recorded as negative performance for the individual approved. For persons to be eligible to hold a key function certificate for one of these roles under the Gaming Authorisations Regulations²⁹ they must be fit and proper and may be subjected to additional requirements.

The roles which are deemed to constitute key functions shall include:

- Chief Executive;
- Responsibility for gaming operations;
- Responsibility for legal affairs and compliance of the applicable regulatory instruments;
- Responsibility for finance;
- Responsibility for marketing and advertising;
- Responsibility for player support;
- Responsibility for information security; and
- Responsibility for anti-money laundering and fraud.

In the case of a licensee providing a gaming service in gaming premises, the activities constituting a key function shall comprise the activities listed above, as well as the following:

- Responsibility for supervising the croupiers and assistants and managing their work;
- Responsibility for managing the casino's gaming area, including the supervision thereof, to preclude fraud by customers, and the resolution of customer disputes;
- Responsibility for managing the surveillance systems of the casino.

Furthermore, it should be noted that today's current function of a key official is being associated with the key role of compliance officer for regulatory affairs. The functions identified may be enjoyed by the same person. However, such an eventuality would be scrutinized to ensure that persons enjoying such function are fit and proper and that no conflicts exist.

The Authority has recognised the necessity to strengthen the requirements which must be met by the person or persons fulfilling the key legal and compliance role within a licensed entity. Compliance capability has become mission-critical and our fit and proper assessment policy framework shall address continued performance of individuals holding such functions more closely.

The Fit and Proper Guidelines focus around honesty and integrity, criteria that apply across all functions. However, the element of 'competence' in the course of the Authority's assessment shall be raised and will depend on the role that the relevant and/or qualifying persons will be in, or are, fulfilling. With regard to the office of the Key Official, which we had consulted in a paper dealing with

²⁹ Regulation 23 and Fourth Schedule.

the role of Key Officials³⁰, the Malta Gaming Authority is proposing that ‘competence’ is defined as the person holding professional competences, attested by means of:

1. Certification;
2. Relevant Experience; and
3. Continuing Professional Development.

The above three requirements are envisaged to be cumulative and the fulfilment of one does not exclude the other or others.

The Authority is committed to ensuring that persons enjoying the key role of compliance with regulatory affairs has a sound understanding and knowledge of their legal obligations, together with the gaming operation and compliance methodologies, attested by a certificate that can be obtained by means of following an accredited training programme. The certificate of competence granted by an approved institution will form one of the requirements and therefore, persons with the necessary knowledge would be able to sit for the test without following training.

Relevant experience³¹ in the gaming industry is another consideration that shall be given weight in approving such roles to ensure that the proposed persons can fulfill their duties properly.

First-time applicants shall be heavily scrutinized and furthermore approved persons’ regulatory performance in connection with their key function shall affect their good standing for existing roles and/or further assessments for any proposed new function. Notwithstanding the above, the Malta Gaming Authority firmly believes that, apart from experience, the specific professional competence attested by means of the certificate proposed above should be forthcoming.

We are also focusing on training and continued professional development of key persons in the light of continued changes and disruption in this sector. To this effect all approved Key compliance persons must continuously keep themselves updated with developments in the regulatory and compliance areas directly or indirectly related to the gaming sector. For this reason, an approved Key compliance officer must fulfil a minimum threshold of continuing professional development (CPD) points every calendar year, with each point being equivalent to one hour’s training, and that on an ongoing basis, this aforementioned CPD threshold should be set at a minimum of 16 CPD hours per annum in order to hold this certificate of approval by the Authority.

As for the certification training, the Malta Gaming Authority shall establish what training shall qualify for the CPD requirement with the National Commission for Further and Higher Education (NCFHE). Any other course may still, at the Authority’s discretion, count towards a Key Official’s CPD hours. Other educational activities may be considered by the Malta Gaming Authority as CPD, provided these are relevant to the development of a person’s technical and professional skills and the content is both measureable and verifiable. Such educational activities that may qualify towards CPD requirements

³⁰ Vide footnote 1.

³¹ To satisfy the criterion relating to ‘professional experience’, a minimum of two years of professional experience, obtained in the five years preceding said application, for new entrants in this sector, in any of the following capacities, shall be sufficient: legal, finance or compliance officer of a regulated entity in the financial, and/or gaming sector; and/or - operational role at mid or senior management with a remote gaming operator; - an employee of a gaming regulator at least at middle-management level; - advising / auditing one or more remote gaming operators on an ongoing/consistent basis as a professional advisor holding any one or more of the following licences / warrants / certificates or any other warrants/certificates as established by the Malta Gaming Authority from time to time: Certified Public Accountant, Advocate, Certified Information Systems Auditor. This list of qualifications should be construed as referring to the local qualification and any equivalent qualifications in other EEA countries.

will include attending relevant conferences, seminars, as well as authoring articles in relevant and reputable publications, lecturing or training others on topics relevant to the compliance role.

While assessing the suitability of the applicant for the Key compliance officer function, the Authority will take into consideration any personal licence that the applicant holds from a gaming regulator in an EU/EEA or other approved jurisdiction, and will ensure that there are no duplicate requirements in this respect where possible. The Malta Gaming Authority considers that holding of certain operational roles within gaming licensees with short-term performance incentives potentially conflict with the compliance-centric role of the key compliance function and the obligations towards the Authority and it is for this reason that the Authority wishes to require applicants to certify that they do not have short-term performance incentives for the business for which they wish to act as Key Compliance Officer.

Once persons are approved and certified, they will not need to go through the whole process again for any additional role that shall be notified through a licensee. The latter shall be conditional on the fulfilment of certain obligations, including no previous cancellation of the said approval by the Authority, continuous fulfilment by the persons of their obligations (yearly submissions of the clean police conduct and confirmation of the fulfilment of the minimum CPD hours) and confirmation by the persons of no material change in circumstances.

The Malta Gaming Authority will critically consider an application for a person to hold the role of Key Compliance Officer for several companies within the same legal or economic group of companies as one Key Compliance Officer role, depending on the system of governance within that same legal or economic group of companies. The Authority will adopt the same approach in scrutinizing an applicant's ability to dutifully perform this role for more than one licensee. The Authority shall continue to keep a register of key persons and the current requirement for the Key Official to hold a directorship within the licensee shall not be replicated with respect to any of the key functions envisaged in the new framework.

Compliance and Enforcement

In general terms, the compliance supervisory powers and processes of the Authority have been reformulated and restructured in a more logical and effective way, aiming to raise standards and introduce further investigative powers for regulatory efficacy. First and foremost, a compliance review process has been formally introduced in order for the regulatory thinking of the Authority to be more transparent to the licensees. The process shall be kick-started either in case of a reported or suspected breach of the applicable laws, or on an *ad hoc* basis underpinned by a risk-based approach. Licensees shall be informed of any misgivings which may result and shall be given a reasonable time to submit their views on the Authority's concerns. Where necessary, this process can then dovetail into a formal investigation, which is a more invasive procedure which makes use of the increased powers granted to the Authority in virtue of this new framework in pursuit of more effective supervision.

Following such review and/or investigation, the Authority may then take one or more enforcement measures in relation to the licensee in case where a breach of law or other binding instruments is confirmed. The enforcement measure or measures taken shall be selected depending on the guidelines on enforcement which shall be issued in due course, reflecting largely the current guidelines which underpin the Authority's decisions on the imposition of administrative fines under the current framework. The regulatory objectives and principles enshrined in the new Act shall further guide the Malta Gaming Authority's actions. Flexibility on the nature and scale of enforcement measures has been increased, formally empowering the Authority to move from a soft-handed approach, including by means of warnings, to a stronger hand envisaging financial penalties or criminal procedures, depending on the circumstances of each case and all other relevant considerations.

The Authority is also empowered to revoke, vary or add conditions to the licence held by an operator, whether as an enforcement measure or as a non-punitive measure forming part of its ongoing mission to ensure the most effective regulatory performance of its licensees and the reduction of unnecessary burdens which give no added value to regulatory oversight.

The grounds for suspension and cancellation have been amplified and widened, providing for the power to suspend an activity without prior notice, limited, however, to extraordinary circumstances warranting such extreme measures. Mystery shopping and the playing of games to ascertain adherence to the framework have also been introduced as an exceptional tool to aid the Authority's endeavours, both in ensuring compliance with legislation as well as its player protection mission. The Regulations also provide for the possibility for a licensee to voluntarily suspend its licence, subject to conditions connected to the Authority's satisfaction that this does not prejudice any of the regulatory objectives.

The Authority shall also be empowered to roll out a new procedure whereby it can issue a list of non-compliant operators³², allowing such operators to make submissions to the Authority clarifying and/or addressing a lack of compliance with the regulatory framework in force, in order to be removed from said list. This ensures that would-be consumers of gaming services are aware of such operators and the risks that may be incurred when making use of the services provided thereby.

The possibility for the Authority to nominate an administrator is being introduced to cater for certain exceptional circumstances which warrant such intervention by an independent third-party outside of the operational sphere of the licensee, whether to safeguard employees, players, creditors or otherwise to ensure that public interest prevails. This nomination is to be confirmed by the Civil Court (Voluntary Jurisdiction Section) to ensure oversight of the judiciary on such an important process. Drawing from the Authority's experience, it is preferable to have an independent administrator appointed to handle the assets of the licensed entity as well as to undertake such other functions as may be required. It is a concept which is used in the financial services sector, and is thus being extended to gaming.

Alongside this initiative to overhaul the regulatory framework, the Authority has undertaken other projects which shall improve the Authority's internal tools to effectively supervise the regulatory performance of its licensees. Further to a consultation which was launched in 2016 regarding the introduction of an Enhanced Automated Reporting Platform, a tender process was initiated recently for the provision of such a system for the land-based sector, with the intention of eventually moving towards automated reporting for remote gaming operators as well. To this effect, various initiatives are currently being explored, including pilot projects, to ensure optimum results with minimal impact on the compliance and other operational costs of our licensees. This serves a twofold purpose: facilitating licensees' adherence to their reporting obligations, whilst also increasing the Authority's access to information and thereby strengthening effective compliance oversight.

New Commercial Communications Framework

Following a consultation paper published by the Malta Gaming Authority on the regulatory framework on advertising in gaming, new regulations have been drafted, widening the previously limited scope, and putting all licensees on an equal footing within the context of commercial communications.

The new framework eradicates the difference between the advertising of land-based and remote operations, thus removing the draconian prohibition on mentioning 'casino' within any commercial

³² Regulation 8, Compliance and Enforcement Regulations

communication. By virtue of this framework, therefore, all gaming advertisements will on a level playing field, with equal marketing possibilities.

The provisions included within the proposed Regulations were drafted with the intention of bringing the law in line with the Commission Recommendation of 14th July 2014 on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online. To this end, the proposed framework introduces more robust measures intended to protect consumers, and minors and vulnerable persons in particular. The new framework also builds upon the experience gathered by the Malta Gaming Authority, and best practices witnessed in a number of jurisdictions, and thereby outlines stronger limitations as to where advertisements can be placed, and the manner in which such communications can be made. The framework also introduces rules specifically relating to sponsorships, bonuses and promotions, misleading advertising and advertising aimed at self-excluded persons.

The proposed framework also includes a section wholly dedicated to the enforcement of the provisions, thereby obliging the Malta Gaming Authority to review any complaints, and any defence thereto, within a specified time-limit, thus recognising the time-sensitive nature of any alleged breach of commercial communications regulation. With the aim of providing a holistic approach to enforcement, the Malta Gaming Authority will be collaborating with the relevant entities, such as the Malta Competition and Consumer Affairs Authority, on matters such as action against any misleading advertisements or schemes.

The Malta Gaming Authority is also proposing amendments to the Subsidiary Legislation 350.25 to the Broadcasting Act (Chapter 350 of the Laws of Malta) on the regulation of gambling advertisements in broadcasted media.

Financials

The convergence and simplification of all regulated gaming activity, both online and offline, under two categories of licences- a business-to-business licence, and a business-to-consumer licence, also means radical changes in the administrative fees and tax being imposed. The model being proposed was thoroughly analysed, to ensure a logical, fair and workable formula would apply.

Gaming Tax

The proposal for a horizontal approach to the licensing of gaming services also extends to the manner in which said services are subject to taxation. The tax due in terms of the proposed Gaming Tax Regulations is based on the gaming revenue, as defined, generated by the operators from end customers located in Malta. The proposal thus abolishes any gaming tax previously payable as a fixed fee, moving towards a taxation model which is more equitable and fair.

In line with international developments in this sector, there is also a shift to the point of consumption model in respect of gaming services offered by remote means. Previously gaming operators located in Malta and having an international presence, would have to pay the gaming tax due under Maltese law, as well as any gaming tax or additional indirect tax imposed by the jurisdiction where the customer is located. Transforming our regime into one that imposes taxation at point of consumption resolves this undesirable situation.

Thus, it is proposed that unless otherwise exempt, all operators of licensable gaming services should pay gaming tax amounting to five percent (5%) of the gaming revenue derived from end customers located in Malta, whether the customer is playing from a land-based casino, a gaming parlour, a bingo hall, or via the internet.

Secondly, operators of gaming devices, including slot machines, gaming tables or tickets located or sold in gaming premises shall be subject to a gaming levy, also calculated as a percentage of total gaming revenue generated, via an increasing sliding scale, as per the First Schedule of the proposed Gaming Tax Regulations.

Providers of critical supplies (B2B operators) will not be subject to any additional gaming tax. The gaming tax paid as a fixed fee by Class 4 operators under the current Remote Gaming Regulations is also being abolished, as is the fee payable by the same Class 4 operators when hosting or managing operators licensed outside of Malta. It is understood that, in the vast majority of cases, providers of critical supplies share revenues generated by B2C operators using their services, and hence the relevant tax payable on that specific revenue would have already been subject to tax.

The gaming tax and levy referred to above should be regarded as being neutral in scope, in that it is deemed to be payable by both licensed operators, including operators legally targeting customers in Malta from abroad with an EEA licence which is deemed equivalent to a licence issued by the Malta Gaming Authority, as well as by illegal operators offering a gaming service without the requisite licence (to be collected by way of punitive and enforcement procedures).

Gaming tax shall be payable monthly, together with the submission of regulatory returns containing the relevant data to calculate said tax. In the case of non-submission of the return, or where it is suspected that the return is erroneous, the Malta Gaming Authority is empowered to make an assessment of the tax payable, which assessment may become binding. Administrative penalties and interest are also envisaged in the case of under-declaring or late payment, and the Regulations envisage a process of either challenging an assessment, or filing for an appeal.

Licence and Administrative Fees

The Gaming Licence Fees Regulations provides for a two-tier licence fee for operators of gaming services in possession of the full ten-year licence. Licence fees payable per activity have been abolished, in favour of a singular fee made up of fixed and variable parts.

A fixed licence fee of €25,000 is due every twelve months, in advance, while the variable component is calculated according to gaming revenue generated in lieu of the licence itself. Each game type has a different sliding scale of fees as a percentage, or as part of a fixed bracket, of the total gaming revenue, and for each game type. The variable component of the licence fee includes a minimum payable fee, as well as a maximum capping of €500,000 or €600,000. The variable licence fee is payable monthly, and is calculated throughout the financial year of the operator. Furthermore, start-ups, fulfilling the criteria considered in the Gaming Licence Fees Regulations, are afforded a moratorium from the variable licence fee for the first six months.

Providers of critical supplies are also subject to a licence fee, varying according to the service provided. Game providers are subject to a yearly licence fee ranging between €25,000 and €35,000, depending on the revenue generated by the provider, whilst providers of back-end services, or a control system whereby essential regulatory data is captured, stored or otherwise processed shall be subject to a fee ranging between €3,000 and €5,000 annually.

The Gaming Licence Fees Regulations also prescribe the relevant fees payable for the other licence types, or approvals, including the limited duration licence, cruise casino approval, low-risk games approval, recognition notice and the material supply certificate. Furthermore, additional administrative fees for *ad hoc* approvals, such as the approval of key persons, junket leaders, changes in qualifying interest, approval of new game types, approval of gaming devices or premises amongst other fees are also contemplated therein.

As with the Gaming Tax Regulations, a procedure for assessments and appeals therefrom is also inserted in these proposed regulations.

3. Key Priority Areas in Focus

Introduction of regulatory supervision in approved racecourse gaming activities

The new Act and Regulations extend the power of the Authority to license all gaming activities, including betting and any form of gaming being carried out in and from approved race tracks. Primarily the tote and betting being carried out by bookies shall be licensed and subject to gaming tax in line with other gaming operations. In this respect, the proposal seeks to repeal parts of the Racecourse Betting Ordinance. It is being recommended that the Sports Secretariat caters for matters relating to the running of the racecourse control board under its laws like other sporting activities so as to repeal the Ordinance in its entirety. The licensing of such gaming activities conducted therein will create consistency in the governing framework as well as raise our profile internationally.

Anti-money Laundering

Malta has indeed welcomed the forthcoming application of anti-money laundering and combatting the funding of terrorism requirements to holders of licences to operate games of chance via means of distance communication, which will shortly enter into force by virtue of the transposition into Maltese law of Directive (EU) 2015/849 of the European Parliament on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The Remote Gaming Sector Implementing Procedures, which are being published for consultation and eventual implementation as part of the transposition of the Fourth Anti-Money Laundering Directive, form part of another key initiative being lined up on this subject jointly with the Financial Intelligence Analysis Unit (FIAU). We shall be engaging with the gaming industry and conducting a number of workshops so as to increase awareness and appreciation of money laundering risks.

A number of mitigating measures, including a rigorous updating of our internal risk management matrices are underway so as to feed into our risk-based approach horizontally. Evidently, an increase in presence and substance in Malta will positively impact the risk profile of an operator. The Malta Gaming Authority's priorities on this front will focus on the onboarding and continuous monitoring of its licensees and gaming operators based in Malta. Needless to say, an effective anti-money laundering framework is not only dependent on legal provisions but also on effective coordination between public and private bodies on an ongoing basis, particularly with the Malta Police Force.

The aim is to create consistency in our anti-money laundering requirements across all sectors where, and as required, so as to prevent launderers targeting weak links in the chain.

Fight against the manipulation of sports competitions

The Authority and the Maltese jurisdiction have always held a zero tolerance policy against the manipulation of sports competitions. The Authority actively participates in the relevant processes to prevent abuse of sports competitions by exchanging information with other regulators and law enforcement authorities, both local and foreign, about suspected cases. It collaborates with several sporting organisations with which it has concluded Memoranda of Understanding, including the European Sports Security Agency, the International Olympic Committee, FIFA Early Warning System, and recently also with the Esports Integrity Coalition within the ambit of betting on esports.

Nevertheless, work is underway to strengthen the Authority's role on all fronts and to increase integrity in sport. On the local front, the Authority is heavily involved and actively participates, together with other national stakeholders, in the Anti-Corruption & Transparency Experts' Task-Force,

established to improve the tools in the fight against match-fixing. The Malta Gaming Authority also formed part of the two sub-committees of the Task Force: one on education and awareness raising; and another on legislative amendments. The report of the former sub-committee has been presented to the Task Force and has led to the development of an education campaign which is already underway.

The sub-committee on legislative amendments has also presented its report to the Task Force, and further to such report, a draft Bill has been prepared to replace the current laws against match-fixing, which date back to 1976. The draft Bill takes into account the developments in criminality surrounding match-fixing, and envisages harsher sanctions, amongst other changes. As part of the wider strategy to increase and improve the prevention and detection mechanisms, as well as the reporting structures available to licensed sports betting operators, this regulatory overhaul shall also set the foundations for the introduction of a framework for our licensees to report serious suspicions of match-fixing. Such a framework shall be based on the consultation which the Authority had carried out with its sports betting licensees in 2016, and is meant to enable both the licensees and the Malta Gaming Authority to have a greater role in protecting sport integrity.

Unified Self-Exclusion System

We remain committed in ensuring that players have the necessary tools to engage in gaming services responsibly and treating it as a form of entertainment, so as to avoid the pitfalls of addiction and other problems. Land-based operators have long since been integrated into a unified self-exclusion system which ensures that players wishing to exclude themselves from gaming for a period of time, do so across all terrestrial channels. Remote gaming operators licensed under our current framework are also obliged to offer this facility to their players; however, there is no unified system in place, meaning that an excluded player can seek the services of other operators. The Authority is conscious that this is a lacuna in the protection offered within the Authority's regulated environment and is committed to working towards a unified self-exclusion system across all channels for gaming services provided by its licensees, in pursuit of extending a golden standard for consumer protection to responsible gaming matters.

Virtual currencies

The Authority is cognizant that the rise of crypto-currencies is inevitable. Conscious of the need to remain at the forefront of innovation and to keep up with new developments in technology and the industry, as well as being fully aware that the system at the back of such transactions provides the industry with fast and cost-effective alternatives to traditional payment mechanisms, the Authority is committed to allow the use of crypto-currencies by its licensees in the immediate future.

The Malta Gaming Authority is mindful that there are also risks which have to be addressed in order to ensure that such developments do not prejudice the protection of players, the importance of the prevention of crime and the reputation of the Maltese jurisdiction. To this effect, the Malta Gaming Authority has commissioned a study to assist in the development of a commensurate framework, inclusive of all necessary safeguards, with due regard to the 4th Anti-Money Laundering Directive which is also currently being revised to include further provisions specific to crypto-currencies. Within this ambit, the Authority shall engage in a public consultation exercise, detailing the main findings of the study on a proposed framework for implementation, the fourth quarter of 2017.

Alternative Dispute Resolution Services

On the 21st May 2013, an EU Directive on alternative dispute resolution for consumer disputes was promulgated and then transposed into Maltese law in virtue of the Consumer Alternative Dispute Resolution (General) Regulations (S.L. 378.18 of the Laws of Malta). With respect to providers of a

gaming service, such legislation establishes an obligation to provide players with avenues for complaining to an ADR provider. Further to our mission, to ensure the highest levels of player protection within the regulated gaming environment, it is also one of the core functions of the Authority to receive and assess complaints through its Player Support Unit. Thus, this overhaul seeks to ensure a holistic and streamlined process whereby players are empowered, if aggrieved by the decision of a gaming service provider with respect to a complaint which they filed, to refer the matter to an external ADR provider or to the Authority's Player Support Unit. The law also formalises the role of the Player Support Unit as a provider of mediation services, further to which the Authority is committed to registering the Player Support Unit formally with the Consumer Affairs Council within the Malta Competition and Consumer Affairs Authority as a provider of ADR services, thereby enhancing its mediatory role and strengthening its policies and procedures to ensure that it retains and improves upon its excellent reputation.

4. Next steps

The Authority has undergone a big transformation process since 2013, and four years on we can say that our reformist approach has improved the governance and control structures within, while remaining accountable along the way. Adequate resources, together with effective tools, have become mission-critical and we remain committed to undergo the necessary capital investments to reach excellence in the way we perform our functions. We have enhanced the effectiveness of the Authority so as to achieve public policy goals laid down by the Government.

We remain committed to be more focused and consistent in the decision-making process whilst being more responsive to the industry and the community at large without going astray from our regulatory functions and objectives laid down by law.

The success of this regime should be measured in terms of efficacy for sustainable growth placing the consumer at the heart of the ecosystem. We are strengthening the centralised position of the Malta Gaming Authority at the point of interface between various regulatory frameworks, players and operators at large. We have carefully revisited the legal remit and powers of the Authority together with accountability to ensure integrity and trust are improved and so as to be properly geared for any challenges ahead.

Following feedback, the Gaming Bill and the relevant regulations attached hereto, will be finalised and presented to the Government of Malta to initiate the Parliamentary process for legislative scrutiny and endorsement.

The draft clauses published herein are the result of extensive consultation with various professionals and careful discussion with Government. In parallel, during this consultation period, work shall continue on the lower tier details in the form of directives detailing the processes and shaping further the authorisation and compliance processes for licensees. We will ensure there is an adequate transitory period and provisions to cater for a smooth transition efficiently once this framework gets approved.

Over the coming months, the Malta Gaming Authority will continue its discussions with the industry, interested stakeholders and other entities to clarify further our proposals and to conclude cooperation agreements as explained.

We aim to be as inclusive as possible and we welcome your feedback on our proposals, underpinned by Government's policy direction. The remainder of our lower tier proposals, supplementing this set of laws, for the modernisation of this framework, shall continue to be tackled simultaneously.

We look forward to our reformist journey, to serve you better and to improve our regulatory and supervisory performance. We hope that this legislative platform shall garner your collective support and serve as a stepping stone to modernise our gaming legal framework in the public interest.

If you would like to comment, please write to:

FAO: Dr Edwina Licari
Chief Officer – Legal and EU/International Affairs
Malta Gaming Authority
Level 4, Building SCM02-03,
SmartCity Malta,
Ricasoli SCM1001,
Malta.

Or Email to: legaloverhaul.mga@mga.org.mt

By not later than the 23rd August 2017

Annex 1 - Gaming Act Bill

A BILL entitled

AN ACT to make provision for the governance and regulation of gaming services and products from and within Malta, together with all such activities and matters that are ancillary or incidental thereto or connected therewith, and for the establishment and functions of the Malta Gaming Authority.

BE IT ENACTED BY THE PRESIDENT, by and with the advice and consent of the House of Representatives in this present Parliament assembled, and by the authority of the same, as follows:-

ARRANGEMENT OF THE ACT

		Articles
Part I	Preliminary	
Part II	Regulatory Objectives and Governing Principles	
Part III	Establishment, Functions, Powers and Conduct of Affairs of the Malta Gaming Authority	
Part IV	Authorisations	
Part V	Protection of Minors and Vulnerable Persons	
Part VI	Rights and Obligations of Players	
Part VII	Enforcement and Sanctions	
Part VIII	Financial Provisions	
Part IX	Administrative Review	
Part X	Administration	
Part XI	Miscellaneous	
	First Schedule	
	Second Schedule	
	Third Schedule	

PART I – PRELIMINARY

1. (1) The short title of this Act is the Gaming Act, 2016.
(2) This Act shall come into force on the date of its publication:

Short title.

Provided that the Minister may by regulations provide that one or more articles herein shall not apply with respect to one or more

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persons or categories of persons, or one or more games or categories of games, until otherwise provided.

2. (1) In this Act, unless the context otherwise requires:
"agent" means a person acting for and on behalf of another person;

Interpretation

"ancillary gaming supply" or "ancillary supply" means a gaming supply other than a material supply;

"Authority" means the Malta Gaming Authority established by this Act;

"authorisation" means a licence, approval, certificate, recognition notice or similar instrument issued by the Authority authorising a person to provide a gaming service, gaming supply or a key function;

"authorised person" or "authorisation holder" means a person who holds an authorisation from the Authority;

"binding instrument" means an act, document or other pronouncement of the Authority having binding effect on those to whom it is addressed, as may be prescribed by or under this Act, and shall include the conditions attached to an authorisation;

"Board" shall mean the Board of Governors of the Authority;

"Chairman" means the Chairman of the Board and includes the deputy chairman or another person appointed to act as chairman in circumstances established in this Act or as decided by the Board;

"Chief Executive" means the chief executive officer of the Authority appointed in accordance with this Act;

"confidential information" means any and all information, whether written or otherwise, whether in electronic form or otherwise, and whether or not described specifically by the person disclosing it as confidential, which is related to or connected with the commercial operation of the disclosing person, but shall not include information that:

- (i) is in the public domain;

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- (ii) is or becomes generally available to the public other than as a result of its disclosure by the recipient in breach of confidentiality;
- (iii) was available to the recipient on a non-confidential basis prior to disclosure by the disclosing party; or
- (iv) was, is or becomes available to the recipient on a non-confidential basis from a person who, to the recipient's knowledge, is not bound by a confidentiality agreement with the disclosing party or is otherwise prohibited from disclosing the information to the recipient;
- (v) was lawfully in the possession of the recipient before the information was disclosed to it by the disclosing party;
- (vi) the parties agree in writing is not confidential or may be disclosed; or
- (vii) is developed by or for the recipient independently of the information disclosed by the disclosing party.

“consumer” shall have the meaning prescribed by the Consumer Affairs Act;

“critical gaming supply” or “critical supply” means a material supply which is (a) indispensable in determining the outcome of game or games forming part of the gaming service, and, or (b) an indispensable component in the processing and, or management of essential regulatory data;

“director” means a division of the Authority as may be established from time to time;

“economic activity” means any activity which by its nature is or could be carried out for the purpose of making a profit, whether or not such profit is for philanthropic or other fundraising purposes;

“financial year of the Authority” means a period from 1 January to 31 December of a year;

“game” means a game of chance or a game of skill;

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“game of chance” means an activity the outcome of which is determined by chance alone or predominantly by chance, and includes but is not limited to activities the outcome of which is determined depending on the occurrence or outcome of one or more future events;

“game of skill” means an activity the outcome of which is determined by the use of skill alone or predominantly by the use of skill, but excludes a sport event, unless otherwise established by or under this Act;

“gaming” means an activity consisting in participating in a game, offering a gaming service or making a gaming supply;

“gaming device” means any device or object, including any electrical, electronic, or mechanical device, ticket or any other thing, that is used or is by its nature intended for use as part of a gaming service or in connection therewith in a gaming premises;

“gaming system” means the totality of gaming devices, gaming software and related systems, services and facilities connected therewith, used or by their nature, their assembly and combination intended to be used as part of a gaming service or in connection therewith, in a gaming premises;

“gaming sector” means the economic sector focused on the provision of gaming services and gaming supplies and other services and goods in connection therewith or related thereto;

“gaming service” means making a game available for participation by players, whether directly or indirectly, and whether alone or with others, as an economic activity;

“gaming supply” means a supply, directly or indirectly, of a good or service, in relation to a gaming service, which is either a material gaming supply or ancillary gaming supply, but does not include provision of a key function;

“material supply” or “material gaming supply” means a gaming supply of such importance that any weakness or failure in its provision could have a significant impact on the operator’s (a) ability to meet the operator’s obligations under the Act and all applicable regulatory instruments or (b) to manage the risks related

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to such supply; or (c) to continue in business, and the term “material supply” shall include a “critical supply”;

“minor” means a physical person under the age of eighteen years, except where prescribed otherwise in specific instances under this Act or any other regulatory instrument;

“Minister” means the Minister responsible for the gaming sector;

“money and, or money’s worth” includes, without limitation, currency accepted as legal tender in the jurisdiction or jurisdictions of its issue, virtual currencies, units of value, tokens of value, goods, services and any form of property which may be traded, sold, converted into, or otherwise exchanged for money, goods or services;

“National Lottery games” means the Grand Lottery, Super 5 and Lotto, in the form envisaged in the National Lottery licence as well as any variation of any of the said National Lottery Games, whether in form, process, parameters or participation means;

“National Lottery licence” means a licence granted by the Authority in virtue of a concession by the Minister granted under article 11(3) of the Act, to operate the National Lottery games and such other games as authorised by the Authority, and subject to such terms and conditions therein, and "National Lottery licensee" shall be construed accordingly;

“operator” means a person who carries out a gaming service;

“player” means an end customer who participates or takes preparatory steps to participate in a game;

“player funds” means player’s money and money’s worth held by an operator under an arrangement made between an operator and the player for the provision of a gaming service and includes, but is not limited to, funds that the player has the right to withdraw and funds committed directly by players to games, pending determination of the outcome of such games;

“player funds account” means an account held by or for or on behalf of an operator with a licensed credit, financial and, or payment institution in which player funds and, where applicable, prize float, are kept;

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“prize” means the reward of money or money’s worth offered to one or more participants in a game in accordance with the rules of the game;

“prize float” means an amount, as determined by the Authority or, in the absence of such determination, the operator, to be put aside by the operator from moneys other than player funds for a prudent handling of the operator’s financial risk exposure;

“recognition notice” means a notice issued by the Authority whereby an authorisation issued by another Member State of the EU or the EEA, or a State which is deemed by the Authority to offer safeguards largely equivalent to those offered by Maltese law, is recognised as having the same effect as an authorisation issued by the Authority for the purpose of providing a gaming service, gaming supply and, or key function in or from Malta;

“regulatory data” means data which an authorised person is obliged to compile, retain and, or report to the Authority by or under the Act or any other regulatory instrument;

“regulatory instrument” means the Act, regulations issued under the Act, and the Authority’s binding instruments;

“stake” means money or money’s worth that is or must be committed in order for a player to participate in a game, whether or not it is risked directly on a result of the game;

“vulnerable person” means any person who is known to have a gambling problem, any person whose social circumstances may make him or her more susceptible to problem gambling, or any person who, by virtue of a defect in the capacity of will and understanding, is rendered more susceptible to problem gambling, and this shall include players who are undergoing a period of self-exclusion, persons who have been diagnosed by medical professionals as being problem gamblers, persons who are currently seeking treatment for problem gambling and persons under the influence of alcohol or drugs.

(2) In this Act and any regulations and directives made thereunder, if there is any conflict between the English and Maltese texts, the English text shall prevail.

**PART II – REGULATORY OBJECTIVES AND
GOVERNING PRINCIPLES**

3. (1) The gaming sector in Malta shall be governed and supervised by means of proper regulation of relevant activities and practices in line with the regulatory objectives and governing principles established by this Act.

Gaming sector to be supervised.

(2) The Minister shall determine Malta's general policies not inconsistent with the provisions of this Act for the gaming sector and its governance and supervision.

4. (1) Governance and supervision of the gaming sector shall pursue the following main regulatory objectives:

Main regulatory objectives.

- (a) to ensure that regulation of the gaming sector is carried out in the public interest;
- (b) to ensure that gaming is free from crime and is not used as a source or an instrument of crime;
- (c) to ensure that gaming is conducted in a fair, safe and transparent manner;
- (d) to ensure that the interests of minors and other vulnerable persons are adequately safeguarded;
- (e) to promote the development of a sustainable gaming sector and economic growth;
- (f) to promote the development of Malta as a centre of excellence and expertise for gaming-related competences and skills, knowledge building and knowledge transfer, in particular in technology-rich and player assistance services;
- (g) to promote responsible innovation in the gaming sector.

(2) The pursuit of the regulatory objectives, governance and supervision of the gaming sector shall be guided by the following governing principles:

Governing principles.

- (a) regulatory action shall be proportionate to the aims it strives to achieve and not more burdensome than necessary for the achievement of the said aims;

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- (b) requirements to be imposed on regulated persons shall be non-discriminatory, transparent and accessible, consistent, objective and made public in advance;
- (c) regulatory action affecting rights and obligations of persons shall be timely and shall be reasoned and taken on the basis of appropriate and relevant considerations;
- (d) regulatory procedures and requirements shall be such as to avoid, as much as reasonably possible without prejudicing regulatory objectives, duplication of requirements and controls;
- (e) regulation shall, where appropriate and possible, use a risk-based approach, so that regulatory objectives are pursued in the most efficient and effective way;
- (f) prior to taking regulatory action or imposing regulatory requirements, where appropriate and opportune, consultation shall be carried out with regulated persons, other stakeholders in the gaming sector and/or the wider public as the case may be;
- (g) in case of a conflict between public interest and economic considerations, public interest considerations shall prevail;
- (h) where the public interest considerations so require, the Minister shall be empowered to amend any relevant policies and regulatory actions shall be adjusted accordingly.

Provided that the Authority may deviate from these governing principles if such deviation is objectively justified by an overriding reason relating to public policy, public security, public health or the protection of the environment.

PART III – ESTABLISHMENT, FUNCTIONS, POWERS AND CONDUCT OF AFFAIRS OF THE MALTA GAMING AUTHORITY

5. (1) There shall be an authority, to be called the Malta Gaming Authority.

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(2) The Authority shall be a body corporate having distinct legal personality and shall be capable of entering into contracts, of acquiring and disposing of property of any kind for the purposes of its functions under this Act or any other law, of suing and of being sued, and of doing all such things and entering into all transactions as are incidental to or conducive to the exercise or performance of its functions as aforesaid.

Composition of
the Authority.

- 6.** (1) The Authority shall consist of a Board of Governors.
- (2) (a) The Board shall appoint a Chief Executive for the day-to-day management of the affairs of the Authority.
- (b) The Board shall, on the recommendation of the Chief Executive, appoint such other persons whether from within the Authority or not, to form part of an Executive Committee to assist the Chief Executive in his functions.

(3) It shall be the duty of the other organs of the Authority to provide the Board with all such information as may be required for the proper performance of its functions and in particular to enable it to ensure that its policies are being properly carried out.

(4) The Board and other organs of the Authority shall be composed of such members, and shall conduct their affairs, as prescribed in the First Schedule to this Act.

Powers and
functions of the
Authority.

- 7.** (1) Without prejudice to any other power or function conferred to it by this Act or any other law, in pursuing the main regulatory objectives in line with the governing principles established by this Act, it shall be the function of the Authority:
- (a) to regulate, supervise and keep under review all practices, operations and activities relating to any matter regulated by or under this Act, and the performance of the gaming sector;
- (b) to promote the general interests of players, and to provide the relevant information and guidance to the public;
- (c) to ensure that gaming services are advertised fairly and in a responsible manner in accordance with applicable law;

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- (d) to receive and investigate complaints by players and to assist and promote timely, fair and competent resolution of disputes between players and players and/or operators;
- (e) to monitor the gaming sector in Malta and to undertake or commission such study, research or investigation which it may deem necessary;
- (f) to provide information and issue guidelines and, or reports to the public relating to any matter regulated by or under this Act;
- (g) to consult with the general public or a specific segment thereof, as the case may be, on all matters which the Authority considers necessary and, or desirable;
- (h) to request, collect, compile and maintain records of all relevant data as the Authority may deem appropriate in connection with its functions and objectives;
- (i) to develop the necessary strategy and action plans to achieve the policies, strategies and objectives set by Government or by the Authority;
- (j) to advise the Government generally on the formulation of policies directly or indirectly connected with gaming and the gaming sector, and to make recommendations to Government on actions which in the opinion of the Authority would be expedient in relation to matters falling within the regulatory and supervisory functions of the Authority;
- (k) to advise the Minister on new developments, needs and risks in gaming and the gaming sector and to make proposals as may be deemed necessary or expedient to respond thereto;
- (l) to advise the Minister on the making of regulations;
- (m) to establish the minimum requirements to be satisfied by any person who is engaged or employed in any activity, function or involved in any matter regulated by or under this Act;
- (n) to inquire into the suitability of any person engaged or employed in any activity or involved in any matter

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regulated by or under this Act to ensure that these persons are fit and proper and suitable to carry out their functions;

- (o) to grant any licence, approval, recognition or other authorisation for the carrying out of any operation or activity relating to any matter regulated by or under this Act, as may be required in terms of this Act or regulations issued thereunder;
- (p) to assess whether persons comply with the requirements imposed by or under this Act;
- (q) to impose such proportionate requirements and conditions, in conformity with European Union law and Malta's international obligations, as it may deem necessary in fulfilment of its functions under this Act, or as the Minister may direct the Authority by virtue of article 11 of this Act, in respect of gaming and related activities which are authorised by a competent authority of any other jurisdiction and made available in Malta;
- (r) to ensure high standards of conduct and management throughout the gaming sector;
- (s) to prevent, detect and ensure the prosecution of any offence against this Act or regulations issued thereunder;
- (t) to collaborate with other local or foreign bodies, Government departments, international organisations, and other entities which exercise regulatory, supervisory or licensing powers under any law in Malta or abroad, or which are otherwise engaged in overseeing or monitoring areas or activities in the gaming sector or sectors connected therewith, and to make arrangements for the mutual exchange of information and for other forms of assistance or collaboration in regulatory and supervisory matters;
- (u) to ensure that international obligations entered into by Malta or by the Authority relative to matters regulated by or under this Act are complied with;
- (v) to pursue the establishment of common standards in the gaming sector;

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- (w) to foster advancements in the educational sector for matters relating to the gaming sector;
- (x) to do such other things as are necessary, ancillary or conducive to the attainment of its objectives and, or the performance of its functions under this Act.

(2) In addition to and without prejudice to the above, the Authority shall have the power:

Additional powers.

- (a) to issue and, or publish authorisations and binding instruments, howsoever named, whether addressed to the general public or to categories of persons or to a specific person or persons, as provided for by or under this Act:

Provided that where a binding instrument is issued and addressed to the general public, or to one or more categories of persons, the Authority shall issue such binding instrument in consultation with the Minister;

- (b) to issue and, or publish reports, guidelines, policies and, or consultation papers as may be required, appropriate and, or opportune for the carrying into effect of the provisions of this Act and of any other regulatory instrument;
- (c) to create or participate in the creation and operations of entities whose function shall be necessary, ancillary or conducive to the attainment of the functions and, or objectives of the Authority under this Act or regulations issued thereunder;
- (d) to request any kind of information from its authorised persons, applicants or any other person, as it may in its discretion consider necessary for the performance of its functions or the fulfilment of the objectives under this Act or any other law;
- (e) to establish, impose and collect fees and administrative fines;
- (f) to collect gaming tax and other money which it is empowered to collect in terms of this or any other law; and
- (g) to give such directions and impose such sanctions as it may consider necessary in connection with a

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breach of this Act or any other regulatory instrument or binding instrument:

Provided that any direction and, or sanction imposed in accordance with this paragraph, and any amendment or revocation thereof shall be in writing and shall state the reasons on which it is based, and shall be notified to the person concerned.

Consultation and exchange of information.

(3) The Authority shall, where it considers appropriate, consult and, or exchange information with all competent authorities responsible for any such other areas as may impact on the matters regulated by or under this Act.

(4) The Authority shall also have such other functions, responsibilities and powers as are set out by or under this Act or as may be assigned to it by or under any other law, including all such powers as are necessary for or incidental to the performance of its functions by or under this Act or any other law or regulatory instrument.

(5) It shall be the duty of the Authority to carry out its functions as established by or under this Act or any other law in an impartial, transparent and timely manner and to ensure compliance therewith.

(6) The Authority may, instead of using its officers or employees to carry out any action sanctioned by or under this Act, authorise a third party to carry out such action, and in such cases the contractor of the Authority shall have such powers and obligations as an officer or employee of the Authority carrying out those actions:

Provided that decision-making functions and responsibility thereof shall lie solely with the Authority.

8. Without prejudice to the provisions of the Professional Secrecy Act, any confidential information disclosed to the Authority or any member, officer or employee thereof, shall be secret and, when attributable to an identified or identifiable person, shall not be disclosed or produced other than with the consent of the person who has submitted that information.

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Secrecy and disclosure.

Provided that the above is without prejudice to subarticle (4) of article 25 of this Act:

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Provided further that notwithstanding the above, the Authority may disclose such information to the Police for the purposes of any investigation or prosecution of a criminal offence or when requested to do so by a court of law in any criminal proceedings. The Authority may also disclose such information in any civil proceedings involving the Authority.

9. (1) The legal and juridical representation of the Authority shall vest in the Chief Executive:

Legal personality and representation of the Authority.

Provided that the Chief Executive may appoint any one or more of the Authority's members, officers or employees to appear, sign or otherwise act in the name and on behalf of the Authority in any judicial proceedings and, or in any act, contract, instrument or other document whatsoever:

Provided further that in respect of any matter falling within the functions vested in any member of the Executive Committee, the legal representation of the Authority shall also vest in such Executive Committee member acting alone, or in such member, officer or employee of the Authority, as the Executive Committee member may appoint or authorise for the purpose.

(2) Any document purporting to be an instrument made or issued by the Authority and signed by the Chief Executive, or by a member of the Executive Committee in relation to any matter falling within the functions vested in the relative directorate by the Authority, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Authority.

10. (1) There shall be an Audit Committee, composed of such members and with such functions as the Board may determine.

Audit Committee.

(2) Without prejudice to the generality of the provisions of subarticle (1) hereof, the Audit Committee shall perform an internal audit function, providing oversight of all processes, internal controls, and checks and balances within the Authority, ensuring good corporate governance, as well as the compliance of the Authority with its functions, objectives and obligations at law.

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11. (1) The Minister may, in relation to matters that appear to him to affect public interest, from time to time give to the Authority directions in writing of a general character, consistent with the provisions of this Act, and the Authority shall, as soon as is practicable, give effect to all such directions:

Matters
affecting public
interest.

Provided that the Authority shall act independently and shall not seek or take instructions from any other body on matters related to the general regulation of the gaming sector:

Provided further that in matters that appear to the Authority to affect public interest, the Authority may advise the Minister and make proposals on the measures it deems necessary and, or desirable to address such matters.

(2) The Authority shall afford to the Minister facilities for obtaining information with respect to its property and activities and furnish him with returns, accounts and other information with respect thereto, and afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

- (3)
- (a) It shall be lawful for the Minister to grant concessions to persons to open and operate casinos in gaming premises, for such consideration and under such terms and conditions as the Minister deems fit;
 - (b) It shall be lawful for the Minister to grant concessions to one or more persons to operate the National Lottery games and such other games as the Minister may, in such concession, determine, for such consideration and under such terms and conditions as the Minister deems fit;
 - (c) The grant of a concession in terms of paragraphs (a) or (b) hereof shall be without prejudice to the requirement of such concessionaire to obtain any licences required in terms of this Act, any other regulatory instrument, or any other applicable law.

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12. (1) The Minister may, acting on the advice of the Authority, make regulations to give effect to the provisions of this Act, or to prescribe anything that is to be or which may be prescribed in terms of this Act or any other regulatory instrument and provide for any matter consequential, incidental to or connected therewith.

Powers of the Minister.

(2) Without prejudice to the generality of the foregoing the Minister may, by such regulations:

- (a) establish the categories of authorisations under the Act and the overall requirements and conditions for authorisations, their grant, amendment, renewal, suspension, revocation and termination and other similar actions;
- (b) regulate games, specified categories of games or specified games, and all matters related thereto including the exemption of certain games or categories of games from any or all requirements of authorisation;
- (c) regulate persons involved in activities regulated by or under this Act, and all matters related thereto including the exemption of certain persons or categories of persons from any or all requirements of authorisation.

Provided that the Minister may authorise the Authority to devise all necessary details of such requirements and conditions by way of binding instruments to be issued by the Authority.

(3) Without prejudice to the generality of the foregoing, the Minister may, acting on the advice of the Authority, make regulations providing for the taxation of the persons and entities regulated by the Authority and any other matter related thereto.

PART IV – AUTHORISATIONS

13. Where this Act or any other regulatory instrument prescribe that an activity, of whatsoever nature, requires an authorisation in order to be performed, it shall be an offence against this Act to perform such activity, or to promote, aid or abet such activity unless it is duly authorised.

Requirement for authorisation

**PART V – PROTECTION OF MINORS AND
VULNERABLE PERSONS**

14. Subject only to exceptions specified under the Act, no person shall offer, permit, entice, cause, invite or induce a minor to participate in a game which must, in terms of this Act or any other regulatory instrument, solely be offered to persons who are not minors, whether by means of allowing entrance into gaming premises, selling a gaming ticket, employment or engagement in provision of a gaming service, advertising or promotion of a gaming service or by any other means whatsoever:

Protection of minors.

Provided that a person shall not be deemed to be in contravention of this article due to advertising or promotion of a gaming service if such advertising or promotion is carried out in accordance with applicable regulatory instruments:

Provided further that casinos in gaming premises operating in virtue of a concession granted by the Minister in terms of article 12 of this Act shall not allow a citizen of Malta under the age of twenty-five years to make use of the casino's gaming service.

15. It shall be an offence against the Act for a provider of a gaming service or an agent thereof to provide credit to players for participation in games.

Prohibition of provision of credit.

16. (1) There shall be a fund to be known as the "Social Causes Fund", which shall be composed of monies collected in such manner as may be prescribed by the Minister in Regulations, which shall be used for the fulfilment of responsible gaming endeavours and other good causes.

Social Causes Fund.

(2) There shall be a Social Causes Fund Committee, composed of such members and with such functions as the Minister responsible for Finance may determine, to administer the Social Causes Fund.

(3) The funds from time to time standing to the credit of the Social Causes Fund shall be paid out by the Committee to such persons, organisations, bodies or other entities pursuing deserving causes in the public interest, in such manner as may be determined

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by the Minister, in consultation with the Minister responsible for Finance, in Regulations.

17. The Minister shall, by regulations, establish the overall parameters, criteria and conditions for protecting vulnerable persons in order to minimise potential risk to their health associated with participation in games; provided that the Minister may authorise the Authority to devise all reasonable parameters, criteria, conditions and standards by way of directives or other binding instruments to be issued by the Authority.

Protection of vulnerable persons.

PART VI – RIGHTS AND OBLIGATIONS OF PLAYERS

18. (1) Without prejudice to the functions established in article 7, the Authority shall also have the function of receiving complaints from players arising out of or in connection with any gaming service, without prejudice to any other function which may be assigned to it by the Board from time to time.

Receipt of player complaints.

(2) The Authority may carry out this function by means of an internal unit or otherwise.

(3) In carrying out this function, the Authority shall, to the extent possible, assist and cooperate with bodies responsible for out-of-court settlement of consumer disputes in Malta and in other EEA States in the resolution of local and cross-border consumer disputes concerning gaming services provided by an authorised person.

Safeguarding of player funds.

19. An operator, and any third party holding player funds for or on behalf of such operator, shall be responsible for safeguarding the player funds in accordance with the Player Protection Regulations and any other applicable law.

Collective proceedings by players.

20. Where a group of players are owed player funds by an operator, articles 2, and 4 to 23 of the Collective Proceedings Act shall apply *mutatis mutandis* and such players may institute collective proceedings to recover such player funds.

Responsible gaming measures.

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21. (1) Authorised persons, in particular authorised persons providing a gaming service, shall ensure that their operation is carried out with due regard to responsible gaming measures as envisaged in the Player Protection Regulations and any other regulatory instrument and any other applicable law.

(2) The Authority shall, in ensuring that authorised persons act as required in terms of subarticle (1) hereof, liaise and collaborate with other competent authorities, including but not limited to the Malta Competition and Consumer Affairs Authority.

Responsibility of players.

22. (1) Players shall behave in a fair and honest manner in making use of a gaming service and shall not mislead or deceive operators.

(2) The Authority shall, from time to time, issue a Manifesto detailing the rights and obligations of players making use of a gaming service provided by an operator.

PART VII – ENFORCEMENT AND SANCTIONS

Penalty for criminal offences against this Act.

23. (1) Any person guilty of a breach stipulated in the Third Schedule of this Act shall, on conviction, be liable to a fine (*multa*) of not less than ten thousand euro (€10,000.00) and not more than five hundred thousand euro (€500,000.00) or to imprisonment for a term of not more than five years, or to both such fine and imprisonment.

Provided that where the person convicted of an offence against this Act is a recidivist of an offence against this Act, he shall be liable to a fine (*multa*) of not less than twenty thousand euro (€20,000.00) and not more than one million euro (€1,000,000.00), or to imprisonment for a term of not less than six months and of not more than six years, or to both such fine and imprisonment:

Provided further that where the person so found guilty is the president, director, manager, or any other officer exercising executive functions in a company or other undertaking, organisation, club, society or other association or body of persons, the said person shall, for the purpose of this article, be deemed to be vested with the legal representation of the same company or other

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undertaking, organisation, club, society or other association or body of persons, which shall accordingly be liable *in solidum* with the person found guilty for the payment of the said fine.

(2) The fine referred to in subarticle (1) shall be considered as a civil debt owed and payable to the Authority in respect of which there is an executive title.

(3) The provisions of the Probation Act and of article 21 and articles 28A to 28I of the Criminal Code shall not apply with respect to offences referred to in subarticle (1).

24. (1) The Court of Magistrates, in its criminal jurisdiction, shall be the competent court to take cognizance of offences against this Act or any regulations made thereunder.

Offences to be tried by the Court of Magistrates and sanction of the Authority.

(2) No criminal proceedings under this Act or any other regulatory instrument shall be taken except at the instance or with the sanction of the Authority, and proceedings that have been so taken may, at any time before final judgment, be withdrawn at the request of the Authority.

(2) Notwithstanding the provisions of the Criminal Code, the Attorney General shall have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates in respect of criminal proceedings under this Act or any other regulatory instrument.

(3) In any criminal proceedings under this Act or regulations made thereunder, any officer of the Authority may, notwithstanding the provisions of any other law, produce the evidence, plead and otherwise conduct the prosecution jointly with the police.

(4) Should the evidence of the officer designated by the Authority as aforesaid be required as part of the case for the prosecution, he shall be heard before assuming the duties of a prosecuting officer unless the necessity of his giving evidence arises at a later stage:

Provided that said officer may state the facts constituting the offence before giving evidence.

(5) The punishments provided in this Act shall apply unless the fact constitutes a more serious offence under the Criminal Code or any other law, in which case the provisions of the Criminal Code or of such other law shall apply.

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(6) Notwithstanding the provisions of the Criminal Code, criminal proceedings for an offence against this Act or any other regulatory instrument shall be barred by prescription by the lapse of six years.

Fine by
agreement and
other sanctions.

25. (1) Notwithstanding any other provision of this Act, and without prejudice to any other proceedings to which the person in breach may be liable to under any other law, in the case of any breach mentioned in the Third Schedule to this Act, the Authority may, with the concurrence of the person committing the breach and subject to the rectification of the breach, impose a fine not exceeding five hundred thousand Euros (€500,000.00) for each infringement or failure to comply and, or a sum not exceeding five thousand Euros (€5,000.00) for each day of infringement or non-compliance, and, or any other administrative sanctions as an alternative to criminal court proceedings. Upon conclusion of such agreement, the offender's criminal liability under this Act with regard to the offence or offences in relation to which the agreement has been entered, shall be extinguished.

Provided that the agreement shall not be concluded and the criminal liability of the offender shall not be extinguished unless the agreement is accompanied by the payment of the sum due or the provision of sufficient security for its payment, in the case of a fine, or in the case of another form of sanction by adherence thereto or sufficient security of adherence:

Provided further for the sake of clarity that the agreement, and payment of any fine due in virtue thereof, shall not exonerate the person in breach from rectifying such breach and becoming duly compliant with this Act and other applicable regulatory instruments:

Provided further that any forfeiture contemplated in this Act or the relevant regulatory instrument as a consequence of the offence to which the agreement relates shall, notwithstanding such agreement, still take effect.

(2) The provisions of subarticle (1) shall apply also in any case where the offender has been charged before a Court in relation to the offence, but before final judgement has been given in the case.

(3) In the case of a breach of any regulatory instrument which is not mentioned in the Third Schedule to this Act, the Authority may impose an administrative penalty not exceeding twenty-five

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thousand euro (€25,000) for every breach or non-compliance and, or an administrative penalty not exceeding five hundred euro (€500) for each day on which the breach persists.

(4) The Authority may, by means of a public statement, disclose the name of the person sanctioned, the particular breach of a regulatory instrument committed, and the penalty or administrative measure imposed, where it deems that lack of disclosure would be detrimental to the interests of players or cause disproportionate damage to the parties involved.

(5) Any imposition of a fine or administrative sanction shall be without prejudice to the right of the Authority to recover any and all fees and taxes which are imposed by or under this Act that remain unpaid after their due date. Such fees and taxes shall be due to the Authority as a civil debt and shall upon the service by judicial act of a copy of a notice for payment on the person indicated in the notice, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

26. (1) In the case of any infringement of any provision of this Act or any other regulatory instrument, any moneys or effects representing the gaming activity, as well as any instruments or other means used in gaming and which may have been found and seized by the Police and, or the Authority on the occasion of any search effected on any person suspected of having committed such infringement or which may have been found in any place suspected of being used for such purpose, may, until the contrary is proved, be taken as sufficient evidence that such moneys, effects or place were actually used for gaming and that the persons found therein and located within direct proximity of the moneys or effects used for gaming at the time of the search were taking part in such gaming, even though no such bets or wagers were actually going on in the presence of the Police officers and, or officers of the Authority.

(2) Where any Police officer or any officer of the Authority lawfully authorised to enter any premises suspected to be used in contravention of any regulatory instrument is wilfully prevented from or obstructed or delayed in entering the same or any part thereof, or where any door or any contrivance whatsoever is found in such premises for preventing, delaying or obstructing the entry into the same, or for giving an alarm or warning in case of such

Presumptive
evidence of
gaming.

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entry, or if any such premises or part thereof is found fitted or provided with any means or contrivance for unlawful betting or wagering or for concealing, removing or destroying any instruments used for such unlawful purposes, it shall be evidence, until the contrary is made to appear, that such premises are used for bets or wagers and that the persons found therein were taking part in activities in contravention of the relevant regulatory instrument.

(3) In the case of a prosecution under the provisions of this Act or any other regulatory instrument, any person who in any way whatsoever has taken part in or has been a partner of any person in any bet or wager, and whose evidence is required in support of such charge as aforesaid, shall be compellable to answer any question respecting that charge, notwithstanding that the answer thereto will expose him to criminal prosecution; but in any such event, any person who shall have given evidence in respect of such charge, and who shall have made a true and faithful statement touching such charge, to the best of his knowledge, shall thereupon obtain from the court a certificate to that effect, and he shall, in consequence, be exempted from all punishments in respect of his participation in the bet or wager forming the subject-matter of the charge upon which he gave evidence as witness.

Liability of persons exerting control.

27. Where a legal person is guilty of an offence against this Act or any other regulatory instrument, every president, director, manager and any other officer or person exerting control on such legal person who is knowingly a party to the offence shall be guilty of an offence and liable to punishment accordingly, unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Forfeiture in favour of the Authority.

28. In addition to any penalty under any other provision of this Act or regulations made thereunder, any machine or other device whatsoever and any moneys relating to or used in the commission of any offence listed in the Third Schedule to this Act, or which has served or was intended to serve for the commission of any such offence, shall be seized and forfeited in favour of the Authority and shall be appropriated in favour of the Gaming Fund.

29. Where the fact which constitutes a breach of any regulatory instrument also constitutes an offence under any other law and is

Saving as to higher punishments established in any other law.

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liable to a higher punishment under such law, such higher punishment shall be applied in lieu of the punishment established in this Act.

30. (1) It shall not be lawful for a person –

Counterfeiting and
forgery.

(a) to forge, counterfeit or tamper with any device or any authorisation or other document whatsoever issued under, used or to be used for the purposes of this Act or any other regulatory instrument; or

(b) knowingly to utter any such forged, counterfeit or tampered with device or authorisation or other document.

(2) It shall not be lawful for a person to use, or have in his possession, any device, authorisation or other document issued under, used or to be used for the purposes of this Act or any other regulatory instrument, which the person knows or ought to know to have been forged, counterfeited or otherwise tampered with.

(3) Whosoever shall contravene subarticles (1) or (2) shall be guilty of an offence against this Act. Furthermore, any device, authorisation or other document and any gains which that person may have made due to said device, authorisation or other document referred to in the said subarticles shall be forfeited in favour of the Authority and appropriated in favour of the Gaming Fund.

Place used for
unlawful gaming.

31. (1) Any person who knowingly permits the use of any place for the purpose of the operation, promotion, sale or playing of any game in contravention of any provision of this Act or any other regulatory instrument or in breach of any conditions attached to an authorisation issued by the Authority, or the storage of a device involved in the contravention of this Act or any other regulatory instrument, or who wilfully prevents any Police officer or an officer of the Authority from lawfully entering into such premises, or obstructs or delays such officer from entering by any other means or contrivance whatsoever, or a person who gives any alarm or warning to such person, shall be guilty of an offence against the Act.

(2) Where any Police officer or officer of the Authority is wilfully prevented or obstructed or delayed as aforementioned, it shall be evidence, until the contrary is made to appear, that such premises

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are used for the said unlawful purposes and that the persons found therein were taking part in the relevant unlawful activities.

(3) In addition to any penalty under any provision of this Act or any other regulatory instrument, the money and effects representing the stakes as well as any other money and devices used in the playing of the unlawful game found in any place referred to under subarticle (1) shall be seized and forfeited in favour of the Authority and shall be appropriated in favour of the Gaming Fund.

Investigation
with or without
notice.

32. Notwithstanding any other provision of this Act, the Authority may, whether through its members, officers, inspectors or other employees or through third parties engaged for such purpose, conduct an analysis and investigation of the conduct of operations by an authorised person, with or without prior notice, and with or without informing the relevant authorised person that the person carrying out such analysis and, or investigation is acting on behalf of the Authority.

Power to
demand.

33. (1) Without prejudice to any power exercisable by virtue of the provisions of this Act or any other regulatory instrument or any other law, the Authority may at any time serve on an authorised person a notice requiring him, in such manner and within such reasonable time as may be specified in the notice, to produce or supply for inspection by or on behalf of the Authority, any books, documents, information or any other thing which the Authority knows, or has reasonable cause to believe, to be in the possession of, or to be known to, the authorised person for the purpose of carrying out any of its functions.

(2) If without reasonable excuse any requirement imposed by a notice served by virtue of subarticle (2) is not complied with, the authorised person shall be guilty of an offence under this Act.

34. Whosoever, in order to gain any advantage or benefit for himself or others, shall, in any document intended for the Authority, knowingly make a false, misleading or otherwise incomplete declaration or statement, or otherwise knowingly give false, misleading or otherwise incomplete information to the Authority, shall be guilty of an offence against this Act.

False,
misleading or
incomplete
statements.

PART VIII – FINANCIAL PROVISIONS

35. (1) Without prejudice to the following provisions of this article, the Authority shall so conduct its affairs that the expenditure required for the proper performance of its functions shall, as far as practicable, be met out of its revenue.

Authority to meet Expenditure from Revenue.

(2) The revenue of the Authority shall consist of:

- (a) income derived in respect of authorisations and other fees, rates or charges, including tax, duties and other payments payable under this Act or any other law in respect of which the Authority exercises supervisory, regulatory or similar functions;
- (b) rents, interests and profits accruing from property, deposits and other assets of the Authority; and
- (c) any other money receivable or received by the Authority:

(3) Notwithstanding the provisions of any other law, the claim of the Authority of any amount due by way of any such fees, rates, charges, taxes, duties and other payments including administrative penalties shall constitute a privileged claim, ranking immediately after the wages of employees due in terms of article 20 of the Employment and Industrial Relations Act and claims by the Director of Social Security in terms of article 116 of the Social Security Act, and equally with claims by the Commissioner of Inland Revenue in terms of article 23(11) of the Income Tax Management Act, and shall be paid after such wages and social security claims and together with such income tax claims in preference to all other claims whether privileged or hypothecary.

Cap. 452.

Cap. 372.

Cap. 318.

(4) The Authority shall also be paid by Government out of the Consolidated Fund such sums as the House may from time to time authorise to be appropriated to meet the costs of specified works to be continued or otherwise carried out by the Authority, being works of infrastructure or a similar capital nature.

(5) Any funds of the Authority not immediately required to meet expenditure may be invested in accordance with the provisions of this Act.

(6) The Authority may allocate such funds to the Gaming Fund as may be necessary to achieve the objectives of the Act.

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(7) The Authority may establish an "Ordinary Reserves Fund" to which may be appropriated surplus funds to be used for the purposes of the Authority.

(8) The surplus funds of the Authority mentioned in subarticle (7) for each financial year of the Authority shall be determined after the Authority meets all current expenditure for that year and after making such provisions, including provisions for contingencies, as it deems fit.

(8) After the allocations referred to in subarticles (6), (7) and (8) have been made, the remainder of the surplus funds shall be paid to the Government.

Authority
control of its
finances.

36. (1) The Authority may:

- (a) hold accounts with any bank;
- (b) obtain loans, overdrafts or any other form of credit as may be necessary;
- (c) invest any of its liquid assets in short and medium term first class securities as approved by the Board;
- (d) acquire, purchase, lease or dispose of any movable or immovable property required for the conduct of its business or for any purposes ancillary or incidental to the performance of its functions under this Act.

(2) For the purposes of carrying out its functions under this Act, the Authority may borrow or raise such sums as it may require:

Provided that for any amount in excess of five hundred thousand Euros (€500,000) there shall be required the approval of the Minister in writing.

37. The Minister may make advances to the Authority of such sums as he may agree to be required by the Authority for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may deem appropriate. Any such advance may be made by the Minister out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorizing the Accountant General to make such advance.

Advances from
Government.

Exemption from
Taxes.

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38. The Authority shall be exempt from any liability for the payment of income tax, value added tax, duty on transfers and documents, customs and excise duty, under any law for the time being in force.

39. (1) The Authority shall cause to be prepared in every financial year of the Authority, and shall not later than six weeks after the end of each such year prepare for adoption by the Board of Governors, within six weeks of presentation with or without amendments, estimates of the income and expenditure of the Authority for that financial year:

Estimates and expenditure.

(2) In the preparation of such estimates the Authority shall endeavour to ensure that the total revenues of the Authority are at least sufficient to meet all sums properly chargeable to its income and expenditure account, including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Board may direct.

(4) Notwithstanding the provisions of subarticle (1), if in respect of any financial year of the Authority, it is found that the amount approved by the Board of Governors is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Executive Committee may adopt supplementary estimates for approval by the Board, and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to supplementary estimates.

(5) The Minister shall, at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Authority, approve the same with or without amendment.

Accounts and audit.

40. (1) The Authority shall cause to be kept proper books of accounts and other records in respect of its operations and shall cause to be prepared a statement of accounts in respect of each financial year of the Authority.

(2) The accounts of the Authority shall be audited by auditors appointed by the Board from among persons who are qualified to be appointed as auditors of a company.

Provided that the Minister may require the books and accounts of the Authority to be audited or examined by the Auditor General who

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shall for the purpose have all the powers set out in the Auditor General and National Audit Office Act.

Annual report and audited financial statements.

41. The Authority shall, as soon as may be but not later than five months after the close of each financial year of the Authority, transmit to the House through the Minister, a copy of its annual accounts duly audited together with a report on its activities during the previous year.

The Gaming Fund.

42. The Authority shall create and maintain a fund, to be styled as the “Gaming Fund”, to which there shall be credited and paid by the Authority, upon receipt thereof, such percentage of the gross sums, fees, duties and, or taxes paid by authorised persons to the Authority as may be prescribed by regulations made by the Minister under this Act and such other sums as may be due or allocated to the Gaming Fund in terms of this Act or any other regulatory instrument:

Provided that any reference in any law or private contract or any other legal instrument or document whatsoever, be it domestic, foreign or international, to the Responsible Gaming Fund shall be read and construed as a reference to the Gaming Fund.

(2) All funds standing to the credit of the Gaming Fund may, after deducting the amount to be appropriated in favour of the Social Causes Fund, be used for such lawful purposes as the Authority may, in its discretion, deem necessary or desirable in furtherance of its functions or the main objectives of this Act.

PART IX – ADMINISTRATIVE REVIEW

Cap. 490

43. (1) The Administrative Review Tribunal established by article 5 of the Administrative Justice Act, hereinafter referred to as the “Tribunal”, shall be competent to hear and determine appeals in accordance with this Act.

Administrative Review Tribunal.

(2) The Tribunal shall carry out such functions as are assigned to it in terms of this Act.

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(3) The provisions of the Administrative Justice Act, in so far as they apply to the Administrative Review Tribunal, shall apply to any proceedings before the said Tribunal in terms of this Act, except to the extent that such provisions conflict with the provisions of this Act, in which case the provisions of this Act shall prevail, and the words "public administration" in the said enactment shall be construed as a reference to the Authority.

(4) The Tribunal shall have the power to summon any person to give evidence or to produce books or other documents before it:

Provided that:-

- (i). The clerk, agent, employee or other person confidentially employed in the affairs of the appellant and the parent, spouse or children of the appellant shall not be called to give evidence or to be examined except on the request of the appellant;
- (ii). Except at the request of the appellant, no person shall be examined in relation to any information concerning the appellant in respect of which the said person is under the duty of professional secrecy. This exception does not apply to members or employees of the Authority which the Authority requests to give evidence in order to make its case.

- (6) (a) The Tribunal shall ensure that the members thereof that are selected to adjudicate an appeal in accordance with this Act shall be free from any conflict of interest.
- (b) Any Tribunal member shall abstain in cases of conflict of interest, and in the absence of such abstention may be challenged by either party to the appeal.

Provided that for the purposes of this subarticle a Tribunal member shall be deemed to have a conflict of interest:

- (i) on the grounds on which a judge or magistrate may be challenged or abstain in terms of the Code of Organization and Civil Procedure;
- (ii) if he has previously expressed his professional opinion in relation to the subject matter of the appeal

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- or an issue which is an important consideration with respect to the subject matter of the appeal; or
- (iii) if he provides ongoing professional services to a direct competitor of one of the parties to the appeal in such a manner as to undermine his impartiality, or to give the reasonable appearance of a lack of impartiality.

(7) The Tribunal members shall not be personally liable for any act or default of the Tribunal done or omitted to be done in good faith in the course of the operations of the Tribunal.

44. (1) Any person who feels aggrieved by a decision of the Authority may enter, within twenty days after the date of service upon him of notice of the Authority's decision, an appeal to the Administrative Review Tribunal.

Right of appeal.

Provided that where the decision appealed from related to the exercise of discretion by the Authority, the Tribunal shall not query the Authority's decision so long as such discretion has been exercised properly.

Provided further that no appeal shall lie from any decision of the Authority imposing a fine not exceeding two hundred Euros (€200.00) or from any reprimand or warning.

(2) An appeal made under this article shall not suspend the operation of any decision from which the appeal is made:

Provided that a decision to cancel a licence or to impose an administrative penalty in terms of this Act or any other regulatory instrument shall not become operative until the expiration of the period within which an appeal lies under this article and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or the date on which the appeal is abandoned.

Provided further that when a decision to cancel a licence or other authorisation is appealed, pending the determination of the appeal the relevant licence or authorisation shall be deemed suspended.

(3) Every person appealing shall appear before the Tribunal either in person or by agent on the day and at the time fixed for the hearing of the appeal:

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Provided that if it be proved to the satisfaction of the Tribunal that owing to absence from Malta, sickness or other reasonable cause, any person is prevented from attending at the hearing of his appeal on the day and at the time fixed for that purpose, the Tribunal may postpone the hearing of such appeal for such reasonable time as it thinks necessary for the attendance of the appellant.

(4) The onus of proving that the decision of the Authority is unjust shall rest on the appellant.

(5) Subject to the provisions of subarticle (3), the Tribunal shall have the power to confirm or annul the decision or make such order thereon as it shall deem fit.

Certain provisions
to be followed in
the hearing of
appeals.

45. The following provisions shall have effect for the purposes of an appeal made under the previous article of this Act:

(a) The Tribunal shall summarily reject any appeal before it unless *prima facie* proof is brought to the effect that, by the time when the appeal was filed, the appellant had filed all documentation and information in support of his argument with the Authority in connection with the decision forming the subject of the appeal;

Provided that new evidence may be brought on appeal if the party producing the evidence proves that it had no knowledge of such evidence before the appeal or could not, with the means provided by law, have produced such evidence;

(b) The Tribunal shall summarily reject any appeal that is deemed by the Tribunal to be frivolous and, or vexatious. In any such case all costs shall be borne by the appellant, and the Tribunal may also impose on the appellant a nominal fine not exceeding one thousand Euros (€1,000);

(c) Notwithstanding any other provision in this Act or any other law, no appeal shall lie against a decision of the Authority to refuse to grant, or to suspend or cancel a licence or other authorisation on grounds of

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national interest or for the safeguarding of the reputation of Malta.

Appeals on a point of law.

46. (1) Any person who, having appealed to the Tribunal, feels aggrieved by its decision may, by application filed within twenty days of the Tribunal's decision, appeal to the Court of Appeal (Inferior Jurisdiction), on a point of law only.

(2) The Authority may, if it is aggrieved by the decision of the Tribunal, by application filed within twenty days of the Tribunal's decision, appeal to the Court of Appeal (Inferior Jurisdiction), on a point of law only.

(3) Unless any regulatory instrument provides a longer period, the parties shall be given no less than five working days' notice of the date fixed for the hearing of the appeal.

(4) The Court may confirm or annul the Tribunal's decision or make such orders thereon as it may deem fit.

(5) The cost of the appeal shall be at the discretion of the Court, and shall be a sum fixed by the registrar.

Provided that if the Court determines that an appeal is frivolous or vexatious, costs shall be borne by the appellant.

(6) The Minister may, after consulting the Minister responsible for justice, by regulations establish the fees payable in the registry of the courts in relation to the filing of judicial acts in connection with an appeal to the Court of Appeal (Inferior Jurisdiction) under this article:

Provided that until such fees have been so established by the Minister, the fees contained in Schedule A to the Code of Organization and Civil Procedure shall apply.

PART X - ADMINISTRATION

47. (1) Without prejudice to the powers conferred to the Authority by or under this Act, the Authority may, in exceptional circumstances where it is reasonably satisfied that this would be preferable to any other action, proceed to take any one or more of the following measures:

Appointment of administrator.

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- (a) nominate an administrator to take charge of the assets of the authorised person, or any portion of them, for the purposes of safeguarding player funds, the interests of players, and the interests of the employees of the authorised person;
- (b) nominate an administrator to assume control of the business of the authorised person, either to carry on that business or to carry out such other function or functions in respect of such business, or part thereof, as the Authority may direct,

and by application seek the appointment of such administrator by the Civil Court (Voluntary Jurisdiction Section), with such remuneration as the Court may deem fit:

Provided that, where the assets of the authorised person are insufficient to satisfy its liabilities, the remuneration due to the administrator and any lawful expenses and disbursements incurred by the administrator in the performance of his functions shall be paid in the same order of priority as expenses and other disbursements incurred by a liquidator, and the remuneration due thereto, in an insolvent winding up in accordance with article 258 of the Companies Act.

Cap. 386.

(2) Where an administrator is so appointed -

- (a) under subarticle (1)(a), it shall be the duty of the authorised person to deliver to such appointed administrator all the assets, whether movable or immovable, of which he is placed in charge, and all the powers, functions and duties of the authorised person in respect of those assets, including those exercisable by the authorised person in a general meeting, or by the directors, or by any other person, including the legal and judicial representation of the authorised person, shall be exercisable by and vest in the administrator appointed under the said paragraph to the exclusion of any other person;
- (b) under subarticle (1)(b), the authorised person shall submit its business to the control of such appointed

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administrator and shall provide such person with such facilities as may be required to carry on that business or to carry out the functions assigned to such person under the said paragraph; and all the powers, functions and duties of the authorised person, including the legal and judicial representation of the authorised person, shall be exercisable by and vest in the administrator appointed under the said paragraph to the exclusion of any other person.

(3) The Authority may, where it feels it is in the best interest of the players or the general public so to do, make or issue public statements or notices giving warnings or information about any measure taken in terms of this article.

(4) The Authority may require the authorised person concerned to pay all the expenses of, and incidental to, the publication or issue of public statements or notices pursuant to this article, or such part thereof as it may deem appropriate; and any sum so due shall be recoverable by the Authority as a civil debt.

(5) The administrator holds office -

- (a) for the duration established by the Court; or
- (b) in the absence of an established period of duration, until such time as the Court, or the Authority, deems necessary,

unless before such time he resigns by means of a note filed before the Court and notified to the Authority.

(6) The Authority may, by means of a binding instrument, specify in further detail the responsibilities of an administrator appointed in accordance with this Part, the procedures to be followed in connection with such appointment, and other ancillary matters.

PART XI – MISCELLANEOUS

48. Unless otherwise stated in this Act or in any other regulatory instrument, in case of any conflict between this Act or any other regulatory instrument and any provision relating to gaming in any

Lex specialis.

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other law, this Act or such regulatory instrument, as the case may be, shall prevail.

Appointment of officers and employees.

49. (1) Without prejudice to the other provisions of this Act, the appointment of officers and other employees of the Authority, and the establishment of terms and conditions thereof, shall be made by the same Authority.

(2) The Authority shall appoint and employ, at such remuneration and upon such terms and conditions as it may in accordance with this article determine, such officers and employees of the Authority as may, from time to time, be necessary for the due and efficient discharge of the functions of the Authority. Without prejudice to the other provisions of this article and this Act, the appointment and employment of officers and employees shall be regulated by the provisions of the Second Schedule hereof.

(3) No member, employee or other officer of the Authority may participate in gaming offered by an operator regulated by the Authority.

(4) For the purposes of the Criminal Code and of any provision of penal nature in any other law, the members of the Authority and every officer or employee thereof shall be deemed to be public officers.

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Limitation of liability.

50. The Authority and the officers and employees of the Authority, shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function under this Act or any other law administered by the Authority, or otherwise in the exercise of their official duties, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

Consultants and advisers.

51. The Authority may engage such consultants or advisers as it may consider necessary to assist it in the fulfilment of its functions.

52. No person shall, without the prior written consent of the Authority, make or cause to be made any representation in any visual, aural or other form, either specifically or by implication, to the effect that any activity carried out by such person has the approval or is conducted with the cooperation or assistance of the Authority, or that such person is otherwise collaborating with or assisting the Authority.

Name of the Authority not to be used without consent.

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53. Where a notice howsoever described is required to be given by the Authority to any person whether under this Act or under any other law administered by the Authority, the notice shall be addressed to that person and shall be given to the person in any of the following ways:

Service of notices.

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given;
- (b) by leaving it at the usual or last place of abode of the person, if such person has furnished such an address or, if such person has furnished an address for service, at such address;
- (c) by sending it by registered mail addressed to that person at the place or abode or service as aforesaid;
- (d) in the case of a body corporate or other body of persons, by delivering it to an officer or employee thereof at the registered or principal office, or by sending it by registered mail addressed to the body aforesaid at that office;
- (e) in any case where the Authority considers that the immediate giving of the notice is required, by sending it by electronic means, such as by electronic mail to the person:

Provided that the means used must be such as to enable the production of proof of delivery; or

- (f) in any case in which it is not reasonably possible to effect service or give notice in any of the foregoing manners, whether on all or on any one or more of the persons on whom service is to be made or notice is to be given, by affixing the document to be served or given in a conspicuous place on the premises to which it relates, and keeping it so affixed for a period of not less than seven working days, and by publishing the contents thereof in the Gazette.

Language of regulations and directives.

54. Regulations which may be issued by the Minister upon the advice of the Authority or after consultation therewith under any Act

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in respect of which the Authority has been appointed as the competent authority, and any directives or other binding instruments which may be issued by the Authority in accordance with the provisions of this Act or any other regulatory instrument, may be published in the English language only.

Inapplicability of certain provisions.

55. Articles 1713 and 1716 of the Civil Code shall not apply with respect to a game lawfully provided in terms of this Act or any other regulatory instrument and, or any game which is provided by an operator lawfully authorised by or under this Act.

Retention of information.

56. Notwithstanding any other law, including the Data Protection Act, the Authority may, for the purpose of carrying out its functions under this Act or any other regulatory instrument, retain any information, including personal information, for such period of time as is deemed necessary for the fulfilment of the purpose for which that information is collected and retained, or indefinitely if circumstances so warrant.

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Period of forfeiture.

57. Any claim of whatsoever nature brought against the Authority shall be filed within two years from when the interested person knew or could have become aware of the act which gave rise to the claim, whichever is the earlier:

Provided that for the sake of clarity such period shall be a peremptory period and shall not be subject to suspension, interruption, or any other extension of such period.

Reference to the Lotteries and Gaming Authority.

58. (1) Any reference in any law or private contract or any other legal instrument or document whatsoever, be it domestic, foreign or international, to the Lotteries and Gaming Authority of Malta shall be read and construed as a reference to the Malta Gaming Authority.

(2) Any reference in any law or private contract or any other legal instrument or document whatsoever, be it domestic, foreign or international, to the Gaming Act, the Public Lotto Ordinance, and, or the Lotteries and Other Games Act and, or any subsidiary legislation or binding instrument issued thereunder shall be read and construed as a reference to this Act and any applicable regulatory instrument.

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Detailing for
duty.

59. The Prime Minister may, at the request of the Authority, from time to time direct that any public officer shall be detailed for duty with the Authority, in accordance with the Second Schedule to this Act.

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FIRST SCHEDULE

(Article 6(4))

1. (1) The Board shall establish the policies to be pursued by the Authority. In determining such policies, the Board shall follow such policy guidelines as may be set out by the Minister. The Board shall also be responsible for advising the Government in furtherance of the functions and in the attainment of the objectives of the Authority in terms of this Act.

(2) The Board of Governors shall consist of the following:

- (a) a Chairman, appointed by the Minister; and
- (b) four other Governors appointed by the Minister from among persons who have distinguished themselves in business, financial activities, the professions, the public services or academic affairs and who in his opinion are able to represent the points of view of the industry and players.

(3) The Chairman and the other members of the Board shall be appointed for a term being not more than three years, as may be specified in the instrument of appointed. However, the members so appointed may be re-appointed on the expiry of their term of office.

(4) The Minister may designate one of the other members of the Board as Deputy Chairman, and the member so designated shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as Chairman, or while the Chairman is on vacation or during any vacancy in the office of Chairman.

Provided that the Minister may also, in any of the circumstances mentioned in this subarticle, appoint another person to act as Chairman, and in such case the provisions of this subarticle and the provisions of the following subarticle shall apply in respect of such person.

- (5) (a) A person shall not be eligible to be appointed as Chairman or as a member of the Board of Governors, or of any other organ of the Authority, or to hold any other office with the Authority, if he:

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- (i). is the holder of any licence or authorisation issued by the Authority, or otherwise falls under the regulatory or supervisory functions of the Authority; or
 - (ii). is a director, an officer or employee of such holder or other such person mentioned in paragraph (i) hereof; or
 - (iii). has a financial or other interest in any enterprise or activity directly related to gaming;
 - (iv). is a Minister, Parliamentary Secretary or a member of the House of Representatives;
 - (v). is a judge or magistrate of the courts of justice;
 - (vi). has been declared bankrupt or has made a composition or arrangement with his creditors;
 - (vii). is legally incapacitated or interdicted;
 - (viii). has been convicted of an offence punishable by imprisonment for a period of six months or more;
 - (ix). has been found guilty of an offence under this Act or any other law relating to gaming or of an offence against public trust;
 - (x). has engaged in or been associated with any other business practice or otherwise conducted himself in such manner as to cast doubt on his competence or soundness of judgement; or
 - (xi). is otherwise not a fit and proper person to hold that office.
- (b) In determining whether a person is a fit and proper person, the Minister shall have regard to that person's probity, competence and soundness of judgement for fulfilling the responsibilities of that office, to the diligence with which he is fulfilling or is likely to fulfil those responsibilities, and to whether the interests of any person are, or are likely

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to be, in any way threatened by his holding of that office.

(6) Subject to the provisions of this article, the office of a member of the Board shall become vacant:

- (a) at the expiry of his term of office;
- (b) if he resigns;
- (c) if any circumstances arise that disqualify such member from holding office as a member of the Board; or
- (d) if he is removed from office in terms of this article.

(7) A member of the Board may be removed if:

- (a) such member is, in the opinion of the Minister, unfit to continue in office or has become incapable of properly performing his duties as a member;
- (b) the behaviour or performance of the member brings into question his suitability or ability to continue as a member, in particular for behaviour that affects or may affect his reputation, independence or autonomy, or the reputation, independence or autonomy of the Authority;
- (c) the member has been convicted of a criminal offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud, or of bribery or of money laundering, provided that the Minister may suspend the member if he is being investigated for a criminal offence;
- (d) the member fails to perform his duties for a prolonged period without any valid justification:

Provided that notwithstanding the above, it shall be a cause for the removal of a member if that member, for any reason, fails to perform his duties including attending for Board meetings, for a continuous period exceeding six months; or

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(e) if the member acts in contravention of subarticle (9) hereof.

(8) If a member resigns, or if the office of a member of the Board is otherwise vacant, or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed as a member, to be a temporary member of the Board. Any person so appointed shall, subject to subarticles (6) and (7) hereof, cease to be a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(9) Any member of the Board who has any direct or indirect interest in any decision made or proposed to be made by the Board in pursuance of its functions under this Act or any other law shall disclose the nature of his interest at the first meeting of the Board after the relevant facts have come to his knowledge. Such disclosure shall be recorded in the minutes of the Board, and the member having an interest as aforesaid shall withdraw from any meetings at which such decision is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify him from holding office as a member of the Board, he shall report the fact immediately to the Minister and tender his resignation.

2. (1) The meetings of the Board shall be called by the Chairman as often as may be necessary, either of his own motion or at the request of two or more members of the Board:

Provided that the Board shall meet as often as may be necessary, but not less than five times every year.

(2) (a) The Chairman and at least two other members of the Board shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting.

Provided that without prejudice to the other requirements of this Act, no decision shall be valid

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which is not supported by at least two members of the Board.

(b) Each member of the Board shall be entitled to one vote.

Provided that the Chairman shall have an initial vote, and in the event of an equality of votes, a casting vote.

(3) Subject to the provisions of this Act, the Board may regulate its own procedure.

(4) Subject to the foregoing provisions of this article, no act or proceeding of the Board shall be invalidated merely by reason of the existence of any vacancy among its members.

(5) All acts done by any person acting in good faith as a member of the Board shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered. No act or proceeding of the Authority shall be questioned on the ground of the contravention, by a member, of subarticle (9) of article 1 of this Schedule.

3. (1) The Executive Committee shall be responsible for executing the policies decided upon by the Board and for taking the necessary decisions in pursuance thereof as well as decisions in furtherance of the day-to-day management of the Authority.

(2) The Executive Committee shall be composed of the Chief Executive and the heads of the Authority's directorates, and any other persons as necessary, all of whom shall be appointed by the Board on the recommendation of the Chief Executive.

(3) The members of the Executive Committee shall be appointed for such period as may be established by the Chief Executive in the letter of appointment.

(4) The Executive Committee shall meet as often as may be necessary and, subject to the provisions of this Act, may regulate its own proceedings.

SECOND SCHEDULE

(Article 58)

1. (1) The Prime Minister may, at the request of the Authority, from time to time direct that any public officer shall be detailed for duty with the Authority in such capacity and with effect from such date as may be specified in the Prime Minister's direction.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service or otherwise ceases to hold office at an earlier date, or unless a different date is specified in such direction, cease to have effect after one year from the effective date of such direction unless the direction is revoked earlier by the Prime Minister.

2. (1) Where any officer is detailed for duty with the Authority under any of the provisions of article 1 of this Schedule, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Authority but he shall, for other intents and purposes, remain and be considered and treated as a public officer.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid:

(a) shall not, during the time in respect of which he is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Authority; and

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(b) shall be entitled to have his service with the Authority considered as service with the Government for the purposes of any pension, gratuity or benefit under the Pensions Ordinance and the Widows' and Orphans' Pension Act and of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Authority.

(3) Where an application is made as provided in subarticle (2)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for service with the Authority.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Authority as aforesaid during the period in which he is so detailed.

3. (1) The Authority may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Authority under the provisions of article 1 of this Schedule, permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the Authority offered to him under the provisions of subarticle (1) shall, for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pension Act, be deemed to have ceased to be in service with the Government and to have entered into service with the Authority on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, insofar as this applies in his case, service with the Authority shall be deemed to be

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service with the Government within the meanings thereof respectively.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Authority was entitled to benefit under the Widows' and Orphans' Pension Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the Authority were service with the Government.

(5) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Authority as aforesaid during the period commencing on the date of such officer's acceptance.

THIRD SCHEDULE

(Article 23 - criminal offences)

- (a) Providing a service which requires an authorisation without the necessary authorisation, or aiding or abetting such a provision;
- (b) Acting contrary to, or not adhering to the fullest extent possible to, an order issued by the Authority, howsoever named;
- (c) Committing one or more of the breaches envisaged in articles 30, 31, 33 and 34 of this Act;
- (d) Preventing, obstructing, or delaying any Police officer or any officer of the Authority lawfully authorised to enter any premises suspected to be used in contravention of any regulatory instrument, or giving an alarm or warning in case of such entry;
- (e) Failing to effect payments to the Authority when lawfully due;
- (f) Failing to effect payments to players when lawfully due:

Provided that where it is disputed whether a payment is lawfully due or otherwise, such payment will be deemed to be lawfully due for the purpose of this provision when there

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is a final binding decision to that effect by a competent court of law or dispute resolution entity.

- (g) Failing to seek the prior approval of the Authority, as may be required by any regulatory instrument, when effecting changes which require such prior approval;
- (h) Failing to ensure the integrity and availability of essential regulatory data;
- (i) Any other breach specified in any regulatory instrument which is defined therein as giving rise to a criminal offence or an offence against the Act.

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Annex 2 - Gaming Definitions Regulations

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Prime Minister

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Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

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Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Gaming Definitions Regulations

IN EXERCISE of the powers conferred by article 12 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Part I

Short Title and Definitions

1. The title of these regulations is the Gaming Definitions Regulations.

Title

2. In regulations under the Gaming Act, unless otherwise expressly stated therein:

Interpretation
across all
regulations.

“the Act” means the Gaming Act;

“ADR” means alternative dispute resolution;

“ADR entity” means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure and that is listed in accordance with the Consumer Alternative Dispute Resolution (General) Regulations, 2015

S.L. 378.18.

“agent” means a person acting for and on behalf of another person;

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“amusement machine” means any type of machine through which a game may be played via an electronic display, made available for use by players in a gaming premises by an operator on a consistent basis, whether or not it is operated by the insertion of money or token, whether or not a successful player receives or is offered a prize, and where the exclusive purpose of such a machine is for amusement and not for gambling purposes.

“ancillary gaming supply” or “ancillary supply” means a gaming supply other than material supply;

“authorisation” means a licence, approval, certificate, recognition notice or similar instrument issued by the Authority authorising a person to provide a gaming service, gaming supply or a key function, and “authorised person”, “authorisation holder”, “authorised game” and “authorised gaming premises” shall be construed accordingly;

“Authority” means the Malta Gaming Authority established by the Act;

“binding instrument” means an act, document or other pronouncement of the Authority having binding effect on those to whom it is addressed, as may be prescribed by or under this Act, and shall include the conditions attached to an authorisation;

“Board” shall mean the Board of Governors of the Authority;

“Chairman” means the Chairman of the Authority and includes the deputy chairman or another person appointed to act as chairman in circumstances established in the Act or as decided by the Board;

“Chief Executive” means the chief executive officer of the Authority appointed in accordance with the Act;

“commercial communications” means text, images, sound or any other medium transmitting information, designed to promote, directly or indirectly, the goods, services, image or brand of a person pursuing a licensable gaming activity, and for the avoidance of doubt, this also includes product placement and any emerging advertising techniques, and “advertisement” and “promotion” shall have the same meaning;

“commercial communication game” means a licensable game organised with the purpose to promote or encourage the sale of goods or services, and which does not constitute an economic activity in its own right, and where any payments required to be made by the participant serve only to acquire the promoted goods or services and not to participate in the game, although it may be a condition that a person purchases the promoted goods or services in order to participate in the game;

Annex 2 - Gaming Definitions Regulations

“common account” means an account held with a credit, financial and, or payment institution licensed in a Member State of the European Union or the European Economic Area;

“confidential information” means any and all information, whether written or otherwise, whether in electronic form or otherwise, and whether or not described specifically by the person disclosing it as confidential, which is related to or connected with the commercial operation of the disclosing person, but shall not include information that:

- (i) is in the public domain;
- (ii) is or becomes generally available to the public other than as a result of its disclosure by the recipient in breach of confidentiality;
- (iii) was available to the recipient on a non-confidential basis prior to disclosure by the disclosing party; or
- (iv) was, is or becomes available to the recipient on a non-confidential basis from a person who, to the recipient's knowledge, is not bound by a confidentiality agreement with the disclosing party or is otherwise prohibited from disclosing the information to the recipient;
- (v) was lawfully in the possession of the recipient before the information was disclosed to it by the disclosing party;
- (vi) the parties agree in writing is not confidential or may be disclosed; or
- (vii) is developed by or for the recipient independently of the information disclosed by the disclosing party.

“consumer” shall have the meaning prescribed by the Consumer Affairs Act;

Cap. 378.

“controlled gaming premises” means any premises intended to make available for use, to host or operate one or more gaming devices, but shall not include premises in which gaming is carried out in virtue of a concession by Government, or premises in which the only gaming which is carried out consists in tombola games;

“controlled skill game” shall be a skill game which requires a stake to enable participation and, or offers the possibility of winning a prize of money or money's worth and which shall be a licensable game;

“corporate group” means, a group of bodies corporate all established in the European Economic Area or otherwise structured in a manner which provides equivalent safeguards, in which a parent entity exercises control to the extent

Annex 2 - Gaming Definitions Regulations

of over ninety percent over other bodies corporate in the same group, whether by way of shareholding or voting rights;

“critical gaming supply” or “critical supply” means a material supply which is (a) indispensable in determining the outcome of game or games forming part of the gaming service, and, or (b) an indispensable component in the processing and, or management of essential regulatory data;

“cruise casino” means a casino on board a cruise ship;

"cruise ship" means a passenger ship used for pleasure voyages with a minimum of three ports of call in three different jurisdictions which may or may not include Malta, having its own amenities, that include lodging facilities for all passengers, and a minimum capacity of 150 passengers: Provided that ferry boats used for transporting passengers and, or cargo shall be excluded from this term;

“directorate” means a division of the Authority as may be established from time to time;

“economic activity” means any activity which by its nature is or could be carried out for the purpose of making a profit, whether or not such profit is for philanthropic or other fundraising purposes;

“essential regulatory record” or “essential regulatory data” means the minimum set of data that must be maintained for regulatory purposes in relation to players, players’ financial transactions (deposits and, or withdrawals), players’ gaming transactions or operator’s gaming revenues;

“exempt game” means a game prescribed to be such by the Minister in regulations;

“financial year of the Authority” means a period from 1 January to 31 December of a year;

“game” means a game of chance or a game of skill;

“game of chance” means an activity the outcome of which is determined by chance alone or predominantly by chance, and includes activities the outcome of which is determined depending on the occurrence or outcome of one or more future events;

“game of skill” or “skill game” means an activity the outcome of which is determined by the use of skill alone or predominantly by the use of skill, but excludes a sport event, unless otherwise established by or under this Act;

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“gaming” means an activity consisting in participating in a game, offering a gaming service or making a gaming supply, and shall be construed accordingly depending on the context;

“gaming device” means any device or object, including any electrical, electronic, or mechanical device, any gaming table, ticket or any other thing, that is used or is by its nature intended for use as part of a gaming service or in connection therewith in a gaming premises, and for the sake of clarity shall include a gaming table;

“gaming premises” means any premises accessible to the public, which is used or intended to be used for players to participate in a gaming service;

“gaming premises operator” means an operator that provides its gaming service in gaming premises;

“gaming sector” means the economic sector focused on the provision of gaming services and gaming supplies and other services and goods in connection therewith or related thereto;

“gaming service” means making a game available for participation by players, whether directly or indirectly, and whether alone or with others, as an economic activity;

“gaming supply” means a supply, directly or indirectly, of a good or service, in relation to a gaming service, which is either a material gaming supply or ancillary gaming supply, but does not include provision of a key function;

“gaming system” means the totality of gaming devices, gaming software and related systems, services and facilities connected therewith, used or by their nature, their assembly and combination intended to be used as part of a gaming service or in connection therewith, in a gaming premises;

“junket” means an arrangement the purpose of which is to induce any person resident outside Malta, selected or approved for participation therein on the basis of his ability to satisfy a financial qualification obligation related to his ability or willingness to gamble, or on any other basis related to his propensity to gamble, to come to a gaming premises for the purpose of gambling and pursuant to which, and as a consideration for which, any or all of the costs of transportation, food, lodging, and entertainment for the said person is directly or indirectly paid by the authorised person operating the gaming premises;

“junket leader” means a person whose function is the promotion and organisation of junkets, who may be the authorised person itself, but who is not part of the junket group;

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“key function” means an important function, role or task carried out by a person in connection with a gaming service or a gaming supply, as may be prescribed by or under any regulatory instrument;

“licence” means a gaming service licence or a critical gaming supply licence in terms of the Gaming Authorisations Regulations, and “licensee” and “licence holder” shall be construed accordingly;

“licensable game” means a game which is not an exempt game;

“limited commercial communication game” means a licensable game organised with the purpose to promote or encourage the sale of goods or services and which includes a stake and a prize limited to the amounts prescribed in the Gaming Authorisations Regulations;

“low risk games” shall be the licensable games listed in the Fifth Schedule of the Gaming Authorisations Regulations;

“Malta” has the same meaning as is assigned to it by article 124 of the Constitution of Malta; “material change” means a significant change in the ownership and, or management structure of the authorised person or a significant change in the gaming system of such authorised person, as may be determined by the Authority in a regulatory instrument;

“material element of a game” means an element of a game determining or having a substantial impact on the outcome of a game;

“material information” means any information, the absence of which may impair a person’s ability to make an informed decision, or which may cause a person to take a transactional decision which a player would not have otherwise taken, and which shall include any requirements, benefits, time frames and restrictions:

Provided that “material information” in the context of information provided by an operator to players, and “material information” provided to the Authority shall be construed accordingly;

“material supply” or “material gaming supply” means a gaming supply of such importance that any weakness or failure in its provision could have a significant impact on the operator’s (a) ability to meet the operator’s obligations under the Act and all applicable regulatory instruments or (b) to manage the risks related to such supply; or (c) to continue in business and the term “material supply” shall include a “critical supply”;

“Minister” means the minister responsible for the gaming sector;

“minor” means a physical person under the age of eighteen years;

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“money and, or money’s worth” includes, without limitation, currency accepted as legal tender in the jurisdiction or jurisdictions of its issue, virtual currencies, units of value, tokens of value, goods, services and any form of property which may be traded, sold, converted into, or otherwise exchanged for money, goods or services;

“National Lottery games” means the Grand Lottery, Super 5 and Lotto, in the form envisaged in the National Lottery licence as well as any variation of any of the said National Lottery Games, whether in form, process, parameters or participation means;

“National Lottery licence” means a licence granted by the Authority in virtue of a concession by the Minister granted under article 11(3) of the Act, to operate the National Lottery games and such other games as authorised by the Authority, and subject to such terms and conditions therein, and "National Lottery licensee" shall be construed accordingly;

“non-profit game” means a game wherein over ninety percent (90%) of the net proceeds are forwarded to an entity with a charitable, sporting, religious, philanthropic, cultural, educational, social or civic purpose;

“operator” means a person who carries out a gaming service;

“passengers” means persons who are registered as passengers on a cruise ship for a particular voyage;

“pathological gambler” means a person who is certified by a competent medical professional as unable to resist impulses to gamble;

“player” means an end customer who participates or takes preparatory steps to participate in a game;

“player’s account” means a record kept by the licence holder, which record shall at all times be accessible to the player, which shows the player’s credit against such licence holder, taking into account all wagers placed and all prizes won by such player and any other debits or credits as may be permitted by these regulations or approved by the Authority;

“player funds” means player’s money and money’s worth held by an operator under an arrangement made between an operator and the player for the provision of a gaming service and includes, but is not limited to, funds that the player has the right to withdraw and funds committed directly by players to games, pending determination of the outcome of such games;

“player funds account” means an account held by or for or on behalf of an operator with a licensed credit, financial and, or payment institution in which player funds and, where applicable, prize float, are kept;

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“Player Support Unit” means the unit set up under article 18 of the Act and regulation 15 of the Player Protection Regulations.

“premises” means any place, including any building, open-air space, vessel or aircraft, and whether accessible to the public or not;

“premises accessible to the public” means premises that may be accessed by or visited by the public, whether for free or for a charge, and includes private clubs where memberships are given or sold for the privilege of belonging thereto and accessing the premises;

“prize” means the reward of money or money’s worth offered to one or more participants in a game in accordance with the rules of the game;

“prize float” means an amount, as determined by the Authority or, in the absence of such determination, the operator, to be put aside by the operator from moneys other than player funds for a prudent handling of the operator’s financial risk exposure;

“public place” means a physical space that is generally open and accessible to the general public, and includes public squares, parks, beaches, roads, streets as well as privately owned buildings or property visible from public thoroughfares;

“qualifying interest” means the minimum direct or indirect shareholding, financial investment or financial contribution to the share capital or working capital of an entity, or the minimum percentage of voting rights in an entity, as may be prescribed by the Minister;

“recognition notice” means a notice issued by the Authority whereby an authorisation issued by another Member State of the EU or the EEA, or a State which is deemed by the Authority to offer safeguards largely equivalent to those offered by Maltese law, is recognised as having the same effect as an authorisation issued by the Authority for the purpose of providing a gaming service, gaming supply and, or key function in or from Malta;

“regulatory data” means data which an authorised person is obliged to compile, retain and, or report to the Authority by or under the Act or any other regulatory instrument;

“regulatory instrument” means the Act, regulations issued under the Act, and the Authority’s binding instruments;

“relevant person” means a person who must satisfy the fit and proper requirements in terms of regulatory instruments;

“sponsorship” means a contractual relationship between an operator and a sponsored party under which the operator provides financing or other support

Annex 2 - Gaming Definitions Regulations

to any organisation, event, team or individual for a charitable, sporting, religious, philanthropic, cultural, educational, social or civic purpose, in order to establish an association between the operator's image or brands, in return for commercial communications or other benefits;

“stake” means money or money’s worth that is or must be committed in order for a player to participate in a game, whether or not it is risked directly on a result of the game;

“terms and conditions” means the rules which apply to the game and the playing of the game by the player;

“tombola game” means a game of chance, also known as “bingo” in which the player uses a tombola scoresheet or a tombola scorecard or an electronic representation thereof bearing numbers, and is played by marking or covering numbers from one (1) to ninety (90), both numbers inclusive, as are identical to numbers drawn by chance, whether manually or electronically, and won by the player who first marks or covers the “line” which is achieved when, during one game, for the first time all five numbers on one horizontal row on one scorecard are drawn; or the "house" or "bingo" which is achieved when, during one game, for the first time all the fifteen numbers on one scorecard are drawn, and shall include variations of such game;

“unified self-exclusion database” means the online system created by the Authority accessible to gaming premises operators, whereby all persons requesting to be excluded from gaming are inputted and saved.

“unsolicited commercial communication” means direct marketing in any form to a person that did not request it and, or with whom the sender does not have an ongoing commercial or contractual relationship;

“vulnerable person” means any person who is known to have a gambling problem, any person whose social circumstances may make him or her more susceptible to problem gambling, or any person who, by virtue of a defect in the capacity of will and understanding, is rendered more susceptible to problem gambling, and this shall include players who are undergoing a period of self-exclusion, persons who have been diagnosed by medical professionals as being problem gamblers, persons who are currently seeking treatment for problem gambling and persons under the influence of alcohol or drugs.

Annex 3 - Gaming Authorisations Regulations

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Prime Minister

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Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

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Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Gaming Authorisations Regulations

IN EXERCISE of the powers conferred by article 12 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Arrangement of these Regulations

		Regulations
Part I	Short Title and Definitions	
Part II	Requirement of a Licence	
Part III	Licence Eligibility, Licence Grant Criteria and Licensing Procedure	
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Part IX	Miscellaneous	
First Schedule	Licence Categories	
Second Schedule	Exempt Games	
Third Schedule	Material Gaming Supplies	
Fourth Schedule	Key Functions	
Fifth Schedule	Low Risk Games	
Sixth Schedule	Skill Games	

Part I **Short Title and Definitions**

1. The title of these regulations is the Gaming Authorisations Regulations.

Title.

2. (1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases defined in the Act shall have the same meaning as prescribed in the Act;

Interpretation.

(2) In these regulations, unless the context otherwise requires:

“the Act” means the Gaming Act;

“regulations” means these Gaming Authorisations Regulations;

Part II **Requirement of a Licence**

3. (1) No person shall provide or carry out a gaming service or provide a critical gaming supply from Malta or to any person in Malta unless such person is in possession of a valid licence, or is exempt from the requirement of a licence under the Act or any other regulatory instrument.

Requirement for a licence.

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(2) No person shall offer a licensable game, whether as part of a gaming service, critical gaming supply or otherwise, unless such game is approved or otherwise recognised by the Authority.

4. The Authority shall have the power to issue licences of the categories set forth in the First Schedule:

Licence categories.

Provided that where Government policy requires that certain gaming services may only be provided when in possession of a Government concession, the Authority shall not issue a licence for the carrying out of such gaming service unless the applicant is in possession of a relevant and valid Government concession.

5. (1) No licence or other authorisation shall be required for the provision of a gaming service or a critical gaming supply where such service or supply is carried out solely in relation to exempt games, provided that the Authority may, where and to the extent it deems fit and appropriate, nevertheless establish appropriate regulatory conditions and measures for exempt games or any type thereof and require and enforce compliance therewith.

No licence for exempt games.

(2) Games or categories of games listed in the Second Schedule shall be deemed exempt games:

Provided that in case of doubt as to whether a game shall be classified within an exempt category of games, the Authority shall have sole discretion to conclusively determine the matter through a ruling or other binding instrument:

Provided further that the Authority may amend or substitute any such binding instrument where it deems it justified.

6. (1) A term of a licence, whether original or renewed, shall be of ten years, unless otherwise prescribed by means of these regulations:

Licence term.

Provided that in the case of a gaming service that requires a Government concession, if the Government concession is of a shorter term, it shall be granted for such shorter term.

(2) Any licence renewal shall in all cases be subject to the continued compliance by the licensee, during the preceding original or renewed term of the licence, with the provisions of the Act, all applicable regulatory instruments and all other applicable laws.

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(3) Without prejudice to the Minister's power to vary the general policy applicable to gaming, no renewal of any licence shall take place if such renewal is contrary to public interest or public policy in place at the time of renewal or is reasonably anticipated to come into place during the proposed renewal term of a licence.

(4) The Authority may, on application, issue a limited duration licence, the term of which shall be established by the Authority, provided that the Authority may establish further conditions or limitations in a binding instrument:

Provided that the Authority shall not issue more than four (4) limited duration licences in any calendar year to any one person, whether the person is the operator, organiser or the person or entity on behalf of whom such gaming activity has been organised, or is being organised.

7. The Authority is vested with the sole discretion to classify an activity as a game of chance, a game of skill or otherwise, provided that such a decision shall be made on the basis of the considerations listed in the Sixth Schedule, and after taking into consideration any submissions made by any person operating or promoting such activity, and any research or publication issued by any other authoritative source:

Skill games.

Provided that the burden of proving that an activity is a skill game shall rest at all times on the party operating or promoting such an activity.

8. The Authority may, issue a ruling or other binding instrument determining that a game is a controlled skill game if the Authority deems it necessary and, or desirable in line with the governing principles and in furtherance of the regulatory objectives established by the Act, and on the basis of the considerations listed in the Sixth Schedule.

Controlled skill games.

Part III

Licence Eligibility, Licence Grant Criteria, Licensing Procedure

9. (1) A person who desires to obtain or renew a licence shall apply to the Authority by making use of the relevant prescribed forms published by the Authority and shall provide all information, documentation and assurances required and shall otherwise fulfil all the licence prerequisites prescribed by the relevant regulatory instruments in force and the specific requirements that may be imposed by the Authority on the applicant, in line with the governing

Licence prerequisites.

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principles and in furtherance of the regulatory objectives established by the Act:

Provided that a request for the renewal of a licence shall be performed within the timeframe prescribed by the Authority in any regulatory instrument, or in terms of any prescribed procedures or forms published by the Authority.

(2) Without prejudice to the generality of sub-regulation (1) of this regulation, the Authority may require from the applicant any information, documentation and assurances as may be necessary or relevant for the Authority to examine and determine the suitability of the applicant to hold a licence, depending on the licence category, type(s) of games and/or services that the applicant intends to offer.

10. (1) A person is not eligible to hold a licence unless such person is established in the European Economic Area.

Eligibility for a licence.

(2) Where the applicant for a licence is a body corporate, such applicant may apply for a licence either for itself only or for its corporate group.

(3) In the case where a licence application is for a corporate group, all references in these regulations to an applicant shall be deemed to refer to each and all members of the corporate group, and where such licence is granted each member of the corporate group and all of them jointly and severally shall be deemed to be a licensee.

11. The Authority, acting in line with the governing principles and in furtherance of the regulatory objectives established by the Act, shall refuse to grant a licence in any of the following instances:

Grant of licence.

- (a) if the application is not submitted in accordance with the established form or in accordance with applicable procedure; or
- (b) if the applicable fees have not been paid; or
- (c) if the Authority, in its reasonable discretion, is not satisfied that the applicant and all relevant persons, including but not limited to all persons having qualified interest in the applicant, are fit and proper:

Provided that it shall be up to the Authority to establish which persons involved in the applicant have to be assessed for the purposes of this sub-regulation:

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Provided further that for the purposes of this assessment, the qualifying interest shall be established as at least ten percent, or any lower percentage as may be determined by the Authority; or

- (d) if, where applicable and in the reasonable opinion of the Authority, it appears on the basis of the assessment, evidence or certification carried as may be prescribed by the Authority for any type of game, that the games the applicant intends to offer do not satisfy the minimum requirements of fairness for their respective game types;
- (e) if it transpires that any information or submission made to the Authority is false, misleading, inaccurate or incomplete in a material respect;
- (f) if the Authority, in its reasonable discretion, is not satisfied that:
 - (1) the applicant is capable of sustainably financing the gaming service or supply; or
 - (2) the applicant has the necessary competence, technical know-how and resources to carry out the gaming offering; or
 - (3) the applicant has a business model to carry the gaming offering in a viable way and in a way that is compliant with the applicable regulatory instruments in force; or
 - (4) the applicant will comply with all regulatory requirements applicable to licensees of the relevant category and with any additional requirements that the Authority considers, on the basis of a risk-based approach, necessary to impose on the applicant, which requirements may include but are not limited to financial safeguards, protection of players and, or the implementation of any policies and procedures.

12. The Authority, acting in line with the governing principles and in furtherance of the regulatory objectives established by the Act, may refuse to grant an authorisation in any of the following instances:

- (a) if the Authority believes that the gaming offering being proposed is not compliant with the regulatory instruments in force; or
- (b) if the Authority believes that granting an authorisation to the applicant may pose a risk to the reputation of Malta or be otherwise

Grant of
authorisation.

Annex 3 - Gaming Authorisations Regulations

not in the public interest or contrary to regulatory objectives established by the Act; or

- (c) if no sufficient information as requested by the Authority has been provided.

13. (1) The Authority may, in furtherance of the regulatory objectives under the Act and in applying a risk-based approach in line with the governing principles:

Further requirements.

- (a) establish, where appropriate or necessary, by means of binding instruments, more extensive, reduced or amended requirements for an applicant to qualify for an authorisation in certain pre-defined circumstances; and, or
- (b) impose on an applicant or on an authorised person, where appropriate or necessary, specific additional requirements by means of a binding instrument.

(2) Without prejudice to the Compliance and Enforcement Regulations, where the Authority has imposed specific requirements on an authorised person or several authorised persons, or where the Authority deems necessary or appropriate to impose new specific requirements on an authorised person or several authorised persons, by whichever binding instrument such imposition is made, the Authority shall have the power to make or vary such imposition during the term of the authorisation, provided that where a variation or a new imposition consists of making requirements more onerous on an authorised person, unless such variation or imposition has been requested by the authorised person itself, the Authority shall by notice in writing inform the authorised person of the Authority's intention to vary the said requirements or to impose new requirements, calling upon the said authorised person to show cause, within such period being not less than twenty days after the issue of the notice as may be specified in the same notice, why such requirement should not be varied or such new condition should not be imposed, and the Authority shall consider any representations made by the authorised person within the period specified in the notice, before varying the requirement or before imposing a new requirement:

S.L.XXX.XX.

Provided that in case where, in the Authority's reasonable opinion, there is serious prejudice or an imminent threat of serious prejudice to public security, public health, players' health, players' financial security, Malta's reputation, or other overriding reason of public interest, the Authority shall be authorised to impose immediate compliance with the variation or a new requirement.

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14. (1) In assessing an application for an authorisation, the Authority must take into consideration and, where possible, avoid duplicating procedures and controls already carried out by the Authority itself or by a competent authority in another EEA jurisdiction, as long as such other procedures and controls have been conducted within a reasonable time from the assessment of the application for an authorisation, as may be established by the Authority:

No duplication of controls and simplification of procedures.

Provided that the Authority may, on a case by case basis, also take into account procedures and controls already carried out by a competent authority in any other jurisdiction which the Authority considers to provide equivalent safeguards to those provided under Maltese law, or as may be established by the Authority.

(2) When requested to rely on procedures and controls or other measures carried out by a competent authority in another jurisdiction, the Authority shall be authorised to subject such measures to verification and shall not be bound to accept them if, in the Authority's discretion, such procedures, controls or other measures do not provide equivalent safeguards to those provided under Maltese law or as may be established by the Authority.

(3) In assessing an application for an authorisation, where it considers it justified on the basis of a risk-based examination of the applicant, information available to the Authority and previous regulatory performance and circumstances of the applicant, the Authority shall apply the principle of simplification of procedures and requirements for an efficient processing of the application.

15. The burden of proving the applicant's qualification to hold an authorisation or to continue holding an authorisation shall be solely on the applicant or the licensee, as the case may be.

Burden of proof of qualification.

16. No game, system, software, device, premises, condition, procedure, policy or any other matter approved by Authority shall be amended or substituted unless the authorised person has obtained a prior written approval by the Authority of any such amendment or substitution:

Compliance.

Provided that the Authority, following a risk-based evaluation, may stipulate by means of any binding instrument that in certain cases notification may be sufficient.

17. An authorisation granted by the Authority cannot be assigned or transferred.

Transferability.

Part IV
Requirement for Other Authorisations

18. No person shall use, or knowingly or negligently allow the use of, whether actively or passively, premises in Malta as gaming premises unless such person is duly authorised in accordance with the Gaming Premises Regulations or any other applicable regulatory instruments:

Approval of premises.

S.L.XXX.XX.

Provided that the Authority may, by way of a binding instrument, exempt certain types or categories of gaming premises from the requirement of approval.

19. No person shall service, place on the market, distribute, supply, sell, lease, transfer, host, operate or in any other manner, make available for use any gaming device or gaming system in the territory of Malta, unless such gaming device or system, as the case may be, has been approved or exempted from approval by the Authority.

Approval of gaming devices.

20. (1) Any person offering a material gaming supply listed in the Third Schedule to an authorised person, may request a material gaming supply certificate from the Authority.

Approval of material supplies.

(2) Any authorised person making use of or seeking to make use of a material gaming supply provided by a third party shall ensure that such a material supplier is either in possession of the certificate envisaged in sub-regulation (1) hereof, or the material gaming supply is otherwise approved on a case-by-case basis by the Authority and subject to a risk-based approach:

Provided that any authorised person receiving material gaming supplies from a third party not in possession of the certificate envisaged in sub-regulation (1) hereof, such authorised person receiving material gaming supplies shall assume full regulatory responsibility for such supplies.

(3) The Authority may prescribe any procedure, levy fees, or impose any conditions or requirements deemed relevant with respect to a certificate to offer material gaming supplies.

21. (1) An authorised person intending on making use of the services of a junket leader shall apply to the Authority for a junket leader approval in terms of the procedure established by the same Authority.

Junkets.

(2) An application for a junket leader shall be submitted at least fifteen (15) working days before the commencement of the junket leader's services.

Annex 3 - Gaming Authorisations Regulations

(3) An application for a junket leader may be deemed invalid if it is not made according to the procedure established by the Authority, if it does include all the necessary requisites, if it is not submitted in a timely manner, or if the relevant administrative fees are not paid.

22. (1) Any person offering licensable games in or from Malta without an authorisation issued in terms of these Regulations, but under an authorisation issued by another Member State of the EU or the EEA, or a State which is deemed by the Authority to offer safeguards largely equivalent to those offered by Maltese law, shall apply to the Authority for a recognition notice according to the procedure established by the Authority.

Recognition notice.

(2) A recognition notice issued in terms of the previous sub-regulation shall have the same effect as an authorisation issued by the Authority for the purpose of providing a gaming service, gaming supply, key function, or any other authorisation in or from Malta.

(3) The Authority may revoke any such recognition notice, and may subject an applicant of a recognition notice to administrative fees where reasonable.

Part V

Provision of key functions

23. No person shall provide a key function listed in the Fourth Schedule to these regulations, unless such person is in possession of a key function certificate issued by the Authority to provide such function.

Certificate to provide a key function.

24. The Authority may, by means of a binding instrument, stipulate requirements and qualifications for a person to be eligible to hold a certificate to provide a key function under these regulations.

Requirements and qualifications for a key function certificate.

Part VI

Conditions to Authorisations

25. The Authority shall have the power to issue conditions to authorisations granted in terms of the Act or any regulations thereunder.

Conditions.

26. Compliance with the Act, any regulations thereunder and any other binding instruments issued by the Authority shall automatically be construed as conditions to authorisations.

Part VII
Voluntary Suspension and Termination

27. (1) An authorised person may request voluntary suspension of an authorisation by giving twenty (20) days' notice in writing to the Authority.

Voluntary suspension.

(2) The Authority may refuse to grant an approval for voluntary suspension of an authorisation on the basis that it is not in the interest of players or on grounds of public policy, public security or the safeguarding of the reputation of Malta.

(3) Where the Authority approves a voluntary suspension, such suspension shall not affect any liability of the authorisation holder for anything done or omitted to be done, or for any amounts due which may have already accrued, before the date of the voluntary suspension. However, the liability of the authorised person to pay the variable licence fee, the levy on gaming devices and gaming tax, as may be applicable, shall stop accruing during any period in which the authorisation is voluntarily suspended.

28. (1) An authorised person may request the surrender of an authorisation by providing twenty (20) days' notice in writing to the Authority.

Surrender.

(2) The Authority may refuse to grant an approval for surrender of an authorisation on the basis that it is not in the interest of players or on grounds of public policy, public security or the safeguarding of the reputation of Malta.

(3) Where the Authority approves a surrender of an authorisation, such surrender shall not affect any liability of the authorisation holder for anything done or omitted to be done, or for any amounts due which may have already accrued before the date of the voluntary suspension.

Part VIII
Other Games

29. (1) The requirement for an operator of low risk games to hold a licence in terms of Part II of these regulations shall be satisfied if the same operator acquires a low risk games permit from the Authority.

Low risk games.

(2) Unless otherwise prescribed in these regulations or any other regulatory instrument, a low risk games operator holding a low risk games

Annex 3 - Gaming Authorisations Regulations

permit shall, for the purposes of these regulations and any other law, be deemed to be an authorised person.

(3) A low risk games permit shall:

- (a) be valid only for the singular event for which it is granted;
- (b) expire once the event is concluded;
- (c) not be renewable;
- (d) not be transferrable without the Authority's prior consent;
and
- (e) be subject to the limitations laid down in the Fifth Schedule:

Provided that for the purposes of this sub-regulation, a singular event shall be deemed to be concluded once an outcome determining the winner or winners of the event in question has been conclusively generated.

30. (1) The requirement for an operator of a cruise casino to hold a licence in terms of Part II of these regulations shall be satisfied if the same operator acquires a cruise casino permit from the Authority.

Cruise casino.

(2) Unless otherwise prescribed in these regulations or any other regulatory instrument, an operator of a cruise casino holding a cruise casino permit shall, for the purposes of these regulations and any other law, be deemed to be an authorised person.

(3) A cruise casino permit shall:

- (a) be valid only for a term not exceeding the time during which the cruise ship is moored at or within Maltese territory;
- (b) be valid only in regard to registered passengers of the cruise ship;
- (c) not be transferrable; and
- (d) be limited to cruise ships, being passenger ships used for pleasure voyages with a minimum of three (3) ports of call in three (3) different jurisdictions which may or may not include Malta, having its own amenities, that include lodging facilities for all passengers, and a minimum capacity of one hundred and fifty (150) passengers.

31. Notwithstanding its status as an exempt game, a person shall not place on the market, distribute, supply, sell, lease, transfer, host, operate or in any other manner, make available for use any amusement machine in any gaming premises, unless such amusement machine has been registered with

Amusement machines.

Annex 3 - Gaming Authorisations Regulations

the Authority by means of the applicable procedure as may be established by the same Authority;

Provided that in registering any such amusement machine, the Authority may levy any applicable administrative fees;

Provided further that the person registering the amusement machines shall ensure that the Authority is notified of any changes to the information provided to the Authority.

Part IX Miscellaneous

32. An authorised person shall pay to the Authority all applicable administrative fees as may be established by the Authority by means of any regulatory instrument.

Administrative fees.

First Schedule

Licence Categories

1. The Authority may issue licences of the following categories:
 - a. Gaming Service licence: a business to consumer licence to offer or carry out a gaming service;
 - b. Critical Gaming Supply licence: a business to business licence to provide or carry out a critical gaming supply.

Provided that a gaming service or a critical gaming supply shall constitute any one or more of the following game types:

- i. Type 1 gaming services, which shall mean games of chance played against the house, the outcome of which is determined by a random generator, and shall include casino type games, including roulette, blackjack, baccarat, poker played against the house, lotteries, secondary lotteries and virtual sports games; and/or
- ii. Type 2 gaming services, which shall mean games of chance played against the house, the outcome of which is not generated randomly, but is determined by the result of an event or competition extraneous to a game of chance, and whereby the operator manages his or her own risk by managing the odds offered to the player; and/or
- iii. Type 3 gaming services, which shall mean games of chance not played against the house and wherein the operator is not exposed to gaming risk, but generates revenue by taking a commission or other charge based on the stakes or the prize, and shall include player versus player games such as poker, bingo, betting exchange, and other commission based games; and or
- iv. Type 4 gaming services, which shall refer to controlled skill games as per regulation 8 of these Regulations.

Provided further that in the case of a game displaying elements which may fall under more than one of the types referred to above, the Authority shall have full discretion in categorising the game in the type it believes closest reflects the nature of the game.

2. For the purposes of this Schedule, the following services shall each constitute a gaming service:
 - a. The offering, provision, or operation of a gaming service;

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- b. The hosting by a person in his premises accessible to the public or in premises accessible to the public that are in his possession or under his control, the operation or in any other manner the making available for use of a gaming device or gaming system.
3. For the purposes of this Schedule, the following supplies shall each constitute a critical gaming supply:
 - a. Supply and management of material elements of a game;
 - b. Supply and management of software, whether as a stand-alone or as part of a system, to generate, capture, control or otherwise process any essential regulatory record;
 - c. Supply and management of the control system, namely the system on which the software referred to in paragraph (b) hereof resides:

Provided that for the purposes of this schedule, the term 'management' means the provision of ongoing active maintenance and support which is indispensable to the provision of the gaming service.

Second Schedule

Exemptions

1. The following games shall each be deemed an exempt game:
 - a. A game of skill which neither requires a stake to enable participation nor envisages a possibility of a prize;
 - b. A game of skill which requires a stake to enable participation and, or offers a possibility of a prize, unless the Authority issues a ruling determining that such a game of skill is a controlled skill game;
 - c. A game of chance which neither requires a stake to enable participation nor envisages a possibility of a prize;
 - d. A licensable game organised on board any vessel flying or entitled to fly the flag of Malta, or registered in Malta, whilst said vessel is navigating outside the territorial waters of Malta.

2. The Authority may, by means of a ruling, and after consulting with the Minister, exempt a gaming device or a category of gaming devices from any or all requirements in terms of these regulations and, or any other regulatory instrument:

Provided that any such exempt rulings shall only be issued in line with the regulatory objectives in terms of Part II of the Act.

Third Schedule

Material Gaming Supplies

Without prejudice to the critical gaming supplies listed in the First Schedule, the following types of gaming supplies shall constitute material gaming supplies:

1. Manufacturing, assembling, placing on the market, distributing, supplying, selling, leasing or transferring a gaming device;
2. Providing risk management services for the operation of a licensable game;
3. Providing event and odds management systems, including content provision for betting;
4. Providing fraud management services for the operation of a licensable game;
5. Holding or managing player funds;
6. Providing services relating to customer due diligence;
7. Providing services related to player identity verification;
8. Providing colocation services and other managed information technology services; and
9. Providing back-up and disaster recovery services.

Fourth Schedule

Key Functions

The following roles and responsibilities performed in connection with the gaming activity of a licensee shall each constitute a key function:

1. Chief Executive;
2. Responsibility for gaming operations;
3. Responsibility for legal affairs and compliance of the applicable regulatory instruments;
4. Responsibility for finance;
5. Responsibility for marketing and advertising;
6. Responsibility for player support;
7. Responsibility for information security; and
8. Responsibility for anti-money laundering and fraud.

In the case of a licensee providing a gaming service in gaming premises, the activities constituting a key function shall comprise the activities listed in paragraphs 1 to 8 above, as well as the following:

1. Responsibility for supervising the croupiers and assistants and managing their work;
2. Responsibility for managing the casino's gaming area, including the supervision thereof to preclude fraud by customers, and the resolution of customer disputes;
3. Responsibility for managing the surveillance systems of the casino.

Fifth Schedule

Low Risk Games

The following shall be deemed to be low risk games:

1. Non-profit games;
2. Commercial communication games:

Provided that one person or entity organising a series of commercial communication games shall not cumulatively exceed one hundred thousand Euro (€100,000) in prizes during any calendar month and not more than five hundred thousand Euro (€500,000) during any calendar year

Provided further that any single event shall not award a prize exceeding fifty thousand Euro (€50,000).

3. Limited commercial communication games, wherein the value of the stake does not exceed five Euro (€5) per player, and the value of the prize does not exceed two hundred and fifty Euro (€250):

Provided that one person or entity organising a series of limited commercial communication games shall not cumulatively exceed five thousand Euro (€5,000) in prizes during any calendar month and not more than fifty thousand Euro (€50,000) during any calendar year.

Sixth Schedule

Skill Games

The considerations which the Authority shall take into consideration in determining whether a game is a skill game or a controlled skill game in terms of regulation 7 and 8 of these regulations shall include the following:

1. The presence of random draws and their effect on the outcome;
2. Whether the game is played for money and, or prizes with a monetary value;
3. Whether participation in a game involves any form of monetary commitment, or commitment of a monetary value;
4. The possibility of any negative social impact of the game;
5. Whether the activity is closely associated with games of chance and/or gambling;
6. The duration of each event, competition or match;
7. Whether, on the face of it, a skilled player is able to win more than an unskilled player;
8. Whether a player's chance of winning is significantly increased by experience in playing the game;
9. Whether skill can be acquired through training, experience, reading literature or other educational material;
10. Whether a rule-set or format that is used further nullifies the effect of any element of chance;
11. Whether the game is played against other human players, or otherwise;
12. The level of interaction between the players, the level of interaction between the operator and the players, and the level of intervention by the operator during the event, competition or match; and
13. The complexity of the game, including the amount of player choices and their potential effect on the outcome, and the strategies involved.

Annex 4 - Gaming Compliance and Enforcement Regulations

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Prime Minister

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Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

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Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Gaming Compliance and Enforcement Regulations

IN EXERCISE of the powers conferred by article 12 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Arrangement of these Regulations

		Regulations
Part I	Short Title and Definitions	
Part II	General Compliance	
Part III	Compliance Review	
Part IV	Formal Investigation	
Part V	Enforcement Measures	
Part VI	Powers of the Authority	

Annex 4 - Gaming Compliance and Enforcement Regulations

Part I Short Title and Definitions

1. The title of these regulations is the Compliance and Enforcement Regulations.

Title

2. (1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations;

Interpretation

(2) In these regulations, unless the context otherwise requires:

“Regulations” means these Gaming Compliance and Enforcement Regulations.

Part II General Compliance

3. (1) An authorised person shall, throughout the term of an authorisation, continuously fulfil and comply with all relevant requirements and be responsible for all obligations imposed by all applicable regulatory instruments.

Obligation for continuous compliance.

(2) An authorised person shall, throughout the term of an authorisation, comply with the policies and procedures which must be notified to the Authority in terms of any regulatory instrument, and any breach of such policies and procedures shall be tantamount to a breach of a regulatory instrument.

4. The Authority may require any authorised person to take actions, implement procedures or systems, to make submissions, to provide information, reports, compliance certificates and, or any other evidence of compliance to the Authority, on a regular or *ad hoc* basis, to demonstrate the authorised person’s compliance with all applicable regulatory instruments:

Authority may give order to take specific actions.

Provided that only compliance certificates issued by certifiers and auditors approved by the Authority shall be recognised by the Authority.

5. The Authority may require any authorised person to undergo a compliance audit, on a regular or *ad hoc* basis, in accordance with directives that may be issued by the Authority:

Power to order compliance audit.

Annex 4 - Gaming Compliance and Enforcement Regulations

Provided that only compliance audits carried out by auditors approved by the Authority shall be recognised by the Authority

Part III Compliance Review

6. (1) The Authority may, where it deems necessary, initiate a review of all or part of the conduct and, or operations of an authorised person.

Compliance
review.

(2) If, in conducting such review, the Authority discovers conduct and, or operations which are not, or may not be, in accordance with the applicable regulatory instruments, it shall notify the authorised person of this fact, giving such authorised person a reasonable time to make any relevant submissions:

Provided that if the authorised person fails to make submissions within the allocated time, the Authority shall reach a decision based on the information available to it:

Provided further that in conducting such review, the Authority may also request any information from third parties that directly or indirectly provide one or more services to, or obtain one or more services from, the authorised person that it deems relevant, without requiring the consent of the authorised person and with or without informing the authorised person.

(3) If the authorised person fails to make submissions or, in its submissions, does not address any concerns which the Authority may have, the Authority may initiate a formal investigation and, or take such other measures, including enforcement measures, as it may deem appropriate.

Part IV Formal Investigation

7. (1) When the Authority has reason to suspect that an authorised person is conducting its affairs in breach of any applicable regulatory instrument or is otherwise no longer suitable to hold such authorisation, it shall initiate a formal investigation of such authorised person.

Authorisation
suspension.

(2) The authorised person shall be informed of the investigation and the reasons for which it was initiated:

Provided that where the Authority reasonably believes that informing the authorised person of such investigation may prejudice the investigation or any possible outcome thereof, or is precluded from informing the authorised person

Annex 4 - Gaming Compliance and Enforcement Regulations

by virtue of any applicable law, it may carry out the investigation without informing the authorised person.

(3) In conducting such investigation, the Authority shall be empowered to request and, or access any and all information, documents and other things from the authorised person that it deems relevant.

Provided that where the Authority requests information, documents or any other things from a third party, it shall not require the consent of the authorised person to which the information, documents or other things relate.

(4) It shall be an offence for the authorised person not to provide the Authority with any information, documents and, or other things which the Authority may require, or to otherwise hinder the Authority's investigation or to neglect to collaborate therewith. In any such case it shall also be lawful for the Authority to make a decision based on the information available to it.

(5) When the Authority's investigation is concluded, the Authority shall provide the authorised person with a report thereon which shall include:

- (a) The reason or reasons for which the investigation was initiated;
- (b) The breaches of applicable regulatory instruments by the authorised person, if any, and the evidence proving such breaches; and
- (c) The enforcement measures which the Authority has deemed it fit to take in the circumstances, if any.

Provided that the Authority may withhold any or all of the above information if disclosing them to the authorised person may prejudice the interests of players or of any other person, or would amount to a breach of any applicable law.

(6) The authorised person may contest the findings in such report within twenty days from the date of notification thereof.

(7) Upon receiving the authorised person's contestation, if any, or upon the lapse of twenty days from the date of notification of the Authority's report, whichever is earlier, the Authority shall communicate to the authorised person its final decision on the matter, confirming, revoking or amending the report.

Part V - Enforcement Measures

8. (1) The enforcement measures which the Authority may take are the following:

- (a) An order, howsoever named, directing the authorised person to do, or to refrain from doing, something or to otherwise correct its conduct and, or operations; and/or
- (b) A warning, howsoever named, directing the authorised person to do, or refrain from doing, something in the future; and/or

Enforcement
measures.

Annex 4 - Gaming Compliance and Enforcement Regulations

- (c) Adding, removing or amending conditions attached to the authorisation held by the relevant authorised person; and/or
- (d) In the case of a breach which is not included in the Third Schedule to the Act, imposing an administrative penalty in terms of article 25(3) of the Act; and/or
- (e) In the case of a breach which is included in the Third Schedule to the Act, and without prejudice to article 25(1) of the Act, filing a report to the Executive Police for the commencement of criminal proceedings; and/or
- (f) Suspending or cancelling the licence, in terms of regulations 9 or 10 of these regulations, as the case may be.

Provided further that the enforcement sanctions mentioned above shall not be made public unless the Authority determines that this is in the public interest or if the Authority is obliged to make such sanction public in terms of any other law.

Provided further that any measure mentioned in paragraph (f) shall be made public.

(2) The Authority may exercise an enforcement measure solely following the conclusion of a compliance review and, or a formal investigation:

Provided further that the Authority may, in exceptional circumstances and in the interest of players or on grounds of public policy, public security or the safeguarding of the reputation of Malta, exercise any enforcement measures which it deems appropriate prior to the performance of the review and, or investigation, or following the conclusion thereof but prior to the lapse of the time within which the authorised person may contest the findings.

(3) Without prejudice to the above and to any provision of the Act or any other law, in the case of the offence listed in paragraph (a) of the Third Schedule to the Act, the Authority may, whether the person in breach is an authorised person or otherwise, impose an administrative fine on the person in breach and, or give any other direction it may deem fit as an alternative to criminal proceedings in terms of article 25(1) of the Act:

Provided that any person in breach of paragraph (a) of the Third Schedule to the Act may request that the above enforcement measure be taken in his regard, and the Authority shall take such measure as an alternative to criminal proceedings unless it is reasonably satisfied that criminal proceedings are more appropriate, having regard to the circumstances of the case:

Provided further that for the avoidance of doubt, the Authority's decision not to impose an administrative fine on the person in breach as an alternative

Annex 4 - Gaming Compliance and Enforcement Regulations

to criminal proceedings shall be considered to be an administrative act subject to an appeal in terms of article 44 of the Act.

(4) Without prejudice to the foregoing, the Authority shall also be empowered to keep and publish a list of operators which are not compliant with the applicable laws and, or regulatory instruments:

Provided that any operator included on such list shall be given the opportunity to make submissions to the Authority, clarifying and, or addressing its lack of compliance, in order for the Authority to remove such operator from the list:

Provided further that should the Authority refuse, further to remonstrations from such operator, to remove the operator from such list, the refusal shall be deemed to constitute an administrative act which may be appealed from in terms of article 43 of the Act.

9. (1) The Authority shall have the power to suspend an authorisation in the following instances:

- (a) the Authority is satisfied that the authorised person, or a person holding direct or indirect interest in the authorised person, or a person holding a key function in the authorised person, is not, or has ceased to be, in the opinion of the Authority, fit and proper to hold such authorisation or such interest in the authorised person;
- (b) the authorised person has failed to comply with an order issued by the Authority;
- (c) the authorised person has failed to comply with one or more applicable obligations in terms of any regulatory instrument;
- (d) the authorised person has failed to discharge financial commitments for its operations or the Authority has reason to believe that such failure is imminent;
- (e) in the case of a natural person, the authorised person becomes incapable of exercising his or her functions as an authorised person due to physical and, or mental incapacity or for any other reason;
- (f) the authorised person is bankrupt, insolvent or is being wound up;
- (g) the authorised person applies for an order, or is compelled by any means or for any reason, to discontinue or to wind up its operations;
- (h) the authorised person is in breach of the laws or regulations at any time in force for the prevention of money laundering and financing of terrorism;

Grounds for suspension.

Annex 4 - Gaming Compliance and Enforcement Regulations

- (i) the authorised person has failed to meet commitments to players in a timely manner, or the Authority has reason to believe that such failure is imminent;
 - (j) circumstances arise which, had they been present and known to the Authority at the time of issuance of the authorisation, would have led the Authority not to issue such authorisation;
 - (k) the authorised person has failed to seek the prior approval of the Authority of any material change where such prior approval is required in terms of any regulatory instrument, or has otherwise failed to notify the Authority of such material change;
 - (l) the authorised person has failed to pay in a timely manner all fees and taxes due to the Authority; or
 - (m) the Authority, in its sole discretion, has determined that there is material and sufficient reason for suspending the authorisation.
- (2)
- (a) Where a ground for suspension of the authorisation arises in terms of sub-regulation (1) of this regulation, the Authority shall, by notice in writing, give the authorised person an amount of time, being not less than twenty days, to show cause why the authorisation should not be suspended.
 - (b) Where a ground for suspension of the authorisation in terms of sub-regulation (1) of this regulation is deemed to exist following a formal investigation and the authorised person has already been granted a period of time to contest the findings of such investigation in terms of sub-regulation (6) of regulation 7, the time period mentioned in paragraph (a) of this sub-regulation shall not be applicable.

Provided that notwithstanding the above and any other provision in any regulatory instrument or any other law, the Authority shall have the right to suspend an authorisation with immediate effect, by written notice to the authorised person and without giving the authorised person time to show cause why the authorisation should not be suspended, where it determines that there exist exceptional grounds for doing so, including but not limited to:

- (i) when the Authority becomes aware that the authorisation was obtained by one or more materially false or misleading representations or in some other improper way; or
- (ii) when the authorised person presents an imminent threat to the reputation of Malta; or
- (iii) when the authorised person presents an imminent threat of serious prejudice to the interests of players or to public or national interest.

Annex 4 - Gaming Compliance and Enforcement Regulations

10. (1) The Authority shall have the power to cancel an authorisation in the following instances:

- (a) One of the grounds for suspension envisaged in regulation 9 of these Regulations arises and the Authority, in its sole discretion, determines that cancellation of the authorisation is the most appropriate measure;
 - (b) the Authority has suspended the authorisation in terms of regulation 9 and, in the circumstances of the case, the Authority becomes satisfied that the matter which has led to the suspension cannot be rectified; or
 - (c) The authorisation has been voluntarily suspended for more than six (6) months and the authorised person has not provided a plan outlining when it expects the authorisation to be reactivated, to the satisfaction of the Authority;
 - (d) the authorised person continues to provide a gaming service and, or a gaming supply and, or a key function, notwithstanding the suspension of the authorisation by the Authority in terms of regulation 9.
- (2)
- (a) Where a ground for cancellation of the authorisation in terms of sub-regulation (1) of this regulation arises the Authority shall, by notice in writing, give the authorised person an amount of time, being not less than twenty days, to show cause why the authorisation should not be cancelled.
 - (b) Where a ground for cancellation of the authorisation in terms of sub-regulation (1) of this regulation is deemed to exist following a formal investigation and the authorised person has already been granted a period of time to contest the findings of such investigation in terms of sub-regulation (6) of regulation 7, the time period mentioned in paragraph (a) of this sub-regulation shall not be applicable.

Provided that notwithstanding the above and any other provision in any regulatory instrument or any other law, the Authority shall have the right to cancel an authorisation with immediate effect, by written notice to the authorised person and without giving the authorised person time to show cause why the authorisation should not be cancelled, on grounds of national interest or to safeguard the reputation of Malta, or if the authorisation was obtained by one or more materially false or misleading representations or in some other improper way.

11. (1) The suspension or cancellation of the authorisation shall not affect any liability of the authorisation holder for anything done or omitted to be

Suspension or cancellation not to affect liability.

Annex 4 - Gaming Compliance and Enforcement Regulations

done, or for any amounts due which may have already accrued, before the date of suspension or cancellation.

(2) Without prejudice to any provision in the Gaming (Fees and Tax) Regulations, the liability of the authorised person to pay any applicable fees and taxes shall stop accruing during any period in which the authorisation is suspended.

12. Notices of suspension or cancellation shall be served on the authorised person in accordance with article 53 of the Act:

Service of notices of suspension or cancellations.

Provided that where the authorised person is notified by electronic means, if the Authority does not have evidence that the notice was received by the authorised person within 24 hours, the Authority may issue the suspension or cancellation notice on its website and the authorised person shall be considered to be notified immediately as soon as the notice is visible on such website:

Provided further that where the suspension or cancellation is issued with immediate effect in terms of the proviso to sub-regulation (2) of regulation 9 or the proviso to sub-regulation (2) of regulation 10, the Authority may publish such notice prior to the lapse of such 24 hours and the authorised person shall be considered to be notified immediately as soon as the notice is visible on the website.

Part VI - Powers of the Authority

13. (1) Without prejudice to anything contained in any other regulatory instrument, an officer of the Authority shall, for the purpose of ascertaining that all applicable regulatory instruments are being complied with, have the following powers:

Powers of officers of the Authority.

- (a) to inspect, test and, or examine any equipment, software or other thing being used in the provision of a gaming service, a gaming supply, or a key function;
- (b) to remove any equipment, software or other thing to another place or premises approved and, or designated by the Authority, for the purpose of an inspection and, or examination;
- (c) to inspect any premises, whether authorised by the Authority or otherwise, in which gaming is taking place or in which they reasonably suspect that gaming is taking place, or in which there is, or they reasonably suspect that there is, any equipment, software or any other thing related to such gaming;
- (d) to demand information or the production of any document or other thing related to gaming or which they reasonably suspect

Annex 4 - Gaming Compliance and Enforcement Regulations

relates to gaming for the purpose of an inspection and, or examination, including but not limited to requiring any person found within any premises in which gaming is taking place to produce identification documents and, or evidence of his age;

- (e) to remove any document or other thing produced as a result of a request under the preceding paragraph or discovered during an inspection for the purpose of examining it and, or making copies or taking extracts or otherwise documenting its existence and, or characteristics;
- (f) to play a game or games for the purpose of confirming whether such game requires authorisation in terms of the Act or any other regulatory instrument;
- (g) to play a game or games which are authorised by the Authority to be offered for the purpose of confirming whether such game is compliant with the Act and any other applicable regulatory instruments;
- (h) to demand information and, or the production of any document or other thing, from any person whom the officer of the Authority reasonably suspects to be conducting gaming without the necessary authorisation;
- (i) to access, retrieve and, or make extracts or copies of any data, information and, or any document or other thing pertaining to an authorised person, wherever such data, information, document or other thing is located and, or stored;
- (j) to call to his assistance for the purpose of carrying out his functions -
 - (i) another officer of the Authority;
 - (ii) any member of the Police Force, any local council, any department of Government or any agency of Government;
- (k) to do all such things as may be ancillary or conducive to their powers and duties under the Act, these regulations and any other regulatory instrument or any other law.

(2) An officer of the Authority removing equipment, software, document or any other thing from any premises or place in terms of sub-regulation (1) shall first provide a receipt for it to the person who owns or is in charge of the premises or place and, subject to sub-regulation (3), shall promptly return the equipment, software, document or other thing to the premises or other place after completion of the inspection, examination, testing, making of copies or taking of extracts, as the case may be.

(3) An officer of the Authority may, for the purposes of evidence, detain for such time as may be required any equipment, software, document or other thing that the officer discovers while acting in the exercise of his powers and which

Annex 4 - Gaming Compliance and Enforcement Regulations

he believes, on reasonable grounds, may afford evidence of a violation of or a non-compliance with anything contained in the Act or any other regulatory instrument.

(4) Copies of or extracts from documents or other things removed from any premises or other place by an officer of the Authority, and certified by an officer of the Authority making the copies or taking the extracts as being true copies of or extracts from the originals, are admissible in evidence to the same extent as, and have the same probatory value as, the documents or things of which they are copies or from which they are extracts.

14. (1) The person who owns or is in charge of any place or premises entered by an officer of the Authority in the exercise of his powers, and any employee or agent of such person shall give all reasonable assistance to the officer of the Authority to enable the officer to exercise his powers in terms of the Act and these regulations, and shall furnish the officer with such equipment, software, records, documents, information or other thing as the officer may request.

Obligation to assist with investigations.

(2) No person shall hinder, obstruct or otherwise interfere with, or knowingly make a false, incomplete or misleading statement, either orally or in writing, or provide or produce a false document or other thing to, an officer of the Authority who is carrying out his duties and functions:

Provided that any such false, incomplete or misleading statement shall be deemed to be a false, incomplete or misleading statement made to the Authority in terms of article 34 of the Act.

Annex 5 - Commercial Communications Regulations

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Prime Minister

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Parliamentary Secretary for
Financial Services, Digital
Economy and Innovation

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Executive Chairman
Malta Gaming Authority

GAMING ACT (CAP. XXX)

Gaming Commercial Communications Regulations, 2017

IN EXERCISE of the powers conferred by Article 12 of the Gaming Act, the Minister for Competitiveness and Digital, Maritime and Services Economy, after consultation with the Malta Gaming Authority, has made the following regulations: -

Arrangement of these Regulations

Part I	Short title and definitions	
Part II	Applicability	
Part III	General Obligations and Limitations	
Part IV	Responsible Gaming	
Part V	Protection of Minors and Vulnerable Persons	
Part VI	Sponsorships	
Part VII	Misleading and Unfair Promotional Schemes	
Part VIII	Exemptions	
Part IX	Enforcement	

PART I
Short Title and Definitions

1. The title of these regulations is the Gaming Commercial Communications Regulations, 2017. Title.
2. (1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations. Interpretation.
- (2) In these regulations, unless the context otherwise requires -
- "Act" means the Gaming Act (Cap XXX of the Laws of Malta);
- "Regulations" means these Gaming Commercial Communications Regulations;
- (3) All other terms used in these regulations shall have the same meaning attributed to them in the Act. Scope.

PART II
Applicability

3. These regulations shall be applicable to:
- (a) all authorised persons offering a licensable game;
 - (b) any person providing any service to, or on behalf of, or in any way in collaboration with an authorised person offering a licensable game.
4. (1) No person shall promote, advertise, publish, or cause to be published any commercial communication with respect to any licensable game unless such person is in possession of the relevant authorisation for the game in accordance with the Gaming Authorisation Regulations:
- Prohibition to publish commercial communications unless authorised.

Annex 5 - Commercial Communications Regulations

Provided that where commercial communications in breach of this regulation are published notwithstanding, the Authority may also take into consideration breaches of the rules contained in these regulations during enforcement proceedings.

PART III General Obligations and Limitations

5. Commercial communications must be socially responsible, with particular regard to the need to protect minors and other vulnerable persons from harm or exploitation.

Commercial communications must be socially responsible.

6. Commercial communications must not:

- (a) Portray, condone or encourage behaviour that is criminal or socially irresponsible or could lead to financial, social or emotional harm, or directly or indirectly encourage anti-social or violent behaviour;
- (b) Suggest that gaming can be a resolution to social, educational, professional or personal problems;
- (c) Suggest that gaming can be an alternative to employment, a solution to financial concerns or a form of financial investment;
- (d) Portray gaming as socially attractive or suggest that it can enhance personal qualities, for example by improving self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration;
- (e) Contain endorsements by well-known personalities or celebrities that suggest games of chance contribute to their social success;
- (f) Portray gaming in a context of toughness or link it to resilience or recklessness;
- (g) Portray gaming as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments;

Limitations.

Annex 5 - Commercial Communications Regulations

- (h) Suggest that solitary gaming is preferable to social gaming;
- (i) Suggest peer pressure to game, or disparage abstention from gaming;
- (j) Suggest that skill can influence the outcome of a game that is purely a game of chance;
- (k) Provide false or untruthful information about the chances of winning or expected return from gaming;
- (l) Exploit cultural beliefs or traditions about gaming or luck;
- (m) Make reference to instantly available consumer credit services, or any other ways of providing credit to players;
- (n) Tarnish the goodwill and privilege that is associated or related in any manner whatsoever to an authorised person or tarnish the image or reputation of another authorised person.

7. (1) An authorised person shall not engage in any activity that involves the sending of unsolicited commercial communications, whether it is through its own operation or by the intervention of third parties.

Unsolicited commercial communications.

(2) An authorised person engaged in the sending of any solicited commercial communications must comply with a request by any person to stop receiving such commercial communications as soon as is reasonably practicable, and in no case later than three (3) days from receipt of the request.

(3) Commercial communications should not target or be sent to players undergoing a period of self-exclusion.

Commercial communications not to be targeted to self-excluded players.

Cap 440.

8. An authorised person who, subject to the Data Protection Act and the regulations made thereunder, collects statistical data about players, and, or, groups players based on patterns and demographics to identify appropriate marketing strategies or player categorisation, shall not use the data gathered to urge or induce any person fitting the profile of a person with a gaming problem to play.

9. An authorised person shall not attempt to induce any player to continue playing the authorised games in any manner when such

No attempt to induce.

Annex 5 - Commercial Communications Regulations

a player has shown the intention to stop the gaming session or to leave the premises in which the gaming activity is being conducted.

10. If an authorised person offers players an alternative version of the authorised games, but with the exclusion of a stake and a prize, the alternative version shall retain the same technical conditions and be otherwise identical to corresponding authorised games.

Games without stake or prize

11. All commercial communications must clearly display:

Information to be displayed.

(a) The name of the relevant authorised person;

(b) A reference to the entity which issued the relevant authorisation whether such entity is the Authority or the competent authority in the relevant jurisdiction, referring to any relevant authorisation reference numbers.

12. For the avoidance of any doubt, any commercial communications displayed by, within or via social media account portals held by authorised persons or third parties acting on behalf of or in collaboration with the authorised persons, are subject to these regulations in their entirety.

Commercial communications on social media.

13. No commercial communications may be issued in any public place:

Public places

Provided that such restriction shall not apply to any commercial communications published, displayed or broadcasted within authorised gaming premises, or in any work environment used by an authorised person.

(2) Sub-regulation (1) shall not apply to commercial communications which are displayed or distributed in:

(a) Locations frequented mainly by tourists, including airports, seaports, hotels and holiday complexes but shall not include bars and restaurants; and

(b) Conferences or events specifically organised in relation to the gaming sector;

(c) Premises of operators, organisers or beneficiaries of authorised low risk games; and

Annex 5 - Commercial Communications Regulations

(d) Printed matter with the exception of any billboard, placard, poster, leaflet, flyer or any other matter the primary purpose of which is commercial communications.

14. It shall be lawful for an authorised person to set up a sign or notice identifying premises used or belonging to it;

Authorised persons may identify premises within specified distance.

Provided that such sign or notice shall be placed directly on the premises referred to above, or not further than a radial distance of five (5) metres from the centre of the entry point to the premises and that sign or notice is the only sign or notice relating to the premises at that entry point;

Provided further that the sign or notice is limited to the identifying name or brand of the authorised person, and directions towards the entrance.

15. Authorised persons promoting or advertising via broadcasting means shall be subject to the Requirements as to Advertisements, Methods of Advertising and Directions Applicable to Gambling Advertisements.

S.L. 350.25

Commercial communications via broadcasting.

PART V **Responsible Gaming**

16. Educational responsible gaming messaging shall be prominently included within all commercial communications related to gaming:

Responsible gaming messages.

Provided that where deemed impractical due to spatial limitation, such as on the screens of portable communications devices, the relevant commercial communication may make use of alternative means which captures the viewer's attention effectively

Provided further that where the alternative method is composed of click-throughs, the landing page should be no further than one-click away and should be either the operator's own responsible

Annex 5 - Commercial Communications Regulations

gaming microsite, or any other web-portal of an entity with a related objective.

17. (1) The web-portal address of any entity devoted to responsible gaming must be carried on all commercial communications and should be presented in a manner which is clearly legible.

Web-portal of entity devoted to responsible gaming

xPART VI

Protection of Minors and Vulnerable persons

18. All commercial communications must prominently display, for its entire duration, a sign indicating the minimum age to participate in the game being promoted.

Minimum age.

19. Without prejudice to the provisions within Regulation 7 commercial communications must not:

Restrictions in relation to minors and vulnerable persons.

- (a) Be directed towards minors or vulnerable persons;
- (b) Encourage or target minors or vulnerable persons to play a game;
- (c) Feature minors;
- (d) Appeal to minors or vulnerable persons in any way;
- (e) Exploit the susceptibilities, aspirations, credibility, inexperience or lack of knowledge of minors or vulnerable persons, or present gaming as a sign of maturity or move to adulthood.

PART VII

Sponsorships

20. (1) For the purposes of this Part, sponsorship shall be limited to text, logo or imagery that serve the exclusive purpose of identifying the authorised person, and excludes product placement.

Sponsorships to exclude product placement.

(2) Authorised persons providing sponsorship shall be excluded from the requirements under Part V of these regulations.

Annex 5 - Commercial Communications Regulations

21. Authorised persons sponsoring any organisation, event or activity for any purpose, shall ensure that any logo or imagery used clearly indicates the identity of the authorised person.

Sponsorships to indicate the authorised person to which they relate.

22. (1) Where an authorised person's gaming service is in any way related to the sponsored party or event, the authorised person:

Service related to sponsored party or event.

- (a) Must in no way exert undue influence in relation to any sporting or other matters, on representatives of the sponsored party or on any persons who can influence, or who have insider knowledge about, the sponsored event; and
- (b) must avoid any implication that they might, as a result of the sponsorship, have any involvement in the management of the activities being sponsored.

23. Activities where the majority of the audience is reasonably expected to be composed of minors or of vulnerable persons, or which have particular appeal to minors or vulnerable persons must not be sponsored.

Sponsorships prohibited where activity mainly involves minors or vulnerable persons.

24. Sponsorship of minors or of persons of legal gaming age portrayed as minors is expressly prohibited:

Sponsorship of minors.

Provided that it is lawful for an authorised person to sponsor events or teams which might include the involvement of one or more minors.

25. An authorised person shall not cause any promotional material, including any logos or text to appear in merchandising designed for or mainly aimed at minors.

Merchandising aimed mainly at minors.

26. Sponsorship of televised programmes that have or are expected to have particular appeal to minors or vulnerable persons is expressly prohibited.

Televised programmes appealing to minors.

PART VII

Misleading and Unfair Promotional Schemes

27. Promotional schemes operated by authorised persons shall be subject to the Consumer Affairs Act.

Promotional schemes.

Annex 5 - Commercial Communications Regulations

28. (1) Any promotional scheme purporting to grant any advantage or opportunity to a player must not be misleading and:

Promotional schemes must not be misleading and must adhere to conditions.

- (a) Must be clear as to the extent of the commitment the consumer must make to take advantage of any offer;
- (b) Cannot omit or hide material information, or present it in a manner which is unclear, unintelligible or ambiguous;
- (c) Must delineate with sufficient prominence all material information, including wagering and deposit requirements which must be fulfilled by a player in order to become entitled thereto, including examples displaying such requirements in an intelligible and easily comprehensible manner, as well as all or any applicable restrictions or other conditions in a clear and unambiguous manner;
- (d) Must include terms and conditions referring to all material information relating to the scheme, which shall be expressly agreed to by the players before being enrolled in the scheme and must be thereafter always be readily available and accessible to the player who has subscribed to the scheme

(2) The authorised person shall ensure that players can constantly view their progress in fulfilling the requirements in order to benefit from any opportunity or advantage granted by the promotional scheme.

29. Where the promotion or advertisement is limited by time or space, it must include as much material information as is practical, and must direct players to an easily accessible alternative source where all the material information is prominently displayed;

Display to include material information when space is limited.

Provided that where the said advertisement is of digital nature, the material information should be displayed no further than one click away from the advertisement itself.

PART VIII **Exemptions**

30. Commercial communications, the sole purpose of which is to inform the public of an opportunity for employment or for an educational purpose, shall be exempt from the provisions of these

Commercial communications devoted to employment or educational purposes.

Annex 5 - Commercial Communications Regulations

Regulations, provided that such commercial communications shall not include any references to gaming activity.

PART IX Enforcement

31. Without prejudice to the powers set out within the Act, and for the purpose of ascertaining that the provisions of these Regulations are adhered to and in the fulfilment of its function as per Article 7(c) of the Act, that gaming is advertised fairly and in a responsible manner:

Complaints.

(i) Upon reception of a complaint by any person, or if the Authority becomes in any other manner aware of a *prima facie* breach of these Regulations, the Authority must immediately notify the respective authorised person of such breach, and allow three (3) working days for the authorised person to submit a defence in writing for this alleged breach;

(ii) The Authority shall examine the nature of the alleged breach of these Regulations, taking into consideration the submissions of the authorised person and publish its decision within ten (10) days from the receipt of submissions from the authorised person. The authorised person must immediately be notified in writing of such decision;

Provided that, the Authority may, when it deems it necessary, instruct the authorized person in writing to suspend the publication or provision of the commercial communication until the final decision is reached by the same Authority and the authorised person shall comply with such instructions;

(iii) In the event that the Authority determines that such commercial communication does not comply with these regulations, the Authority may order its modification, retraction or termination;

(iv) The Authority may take any administrative action required, including the issuing of administrative sanctions as laid down within the Act and the regulations made thereunder against authorised persons;

Annex 5 - Commercial Communications Regulations

Provided that, in the event that the authorised person voluntarily amended, or temporarily suspended the commercial communication in question, pending the final decision of the Authority, this action will be taken into consideration by the Authority when determining the nature of the sanction

(v) The Authority may call on the support of any relevant competent Maltese authorities for the removal of any material which is in breach of these regulations or the Act;

32. (1) An authorised person shall be held responsible for any breach of these regulations, even if the action is not performed directly by it, but by any third party:

Performance by third parties.

Provided that the Authority may decide against subjecting an authorised person to administrative sanctions if it can be shown that the third party acted without the knowledge or approval of the authorised person, and as long as the Authority is satisfied that the authorised person took sufficient action forthwith to rectify the breach.

(2) An authorised person shall, in the event that its gaming activity is being advertised or promoted by a third party in breach of these regulations, endeavour to rectify the situation forthwith.

Annex 6 - Gaming Player Protection Regulations

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Prime Minister

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Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

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Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Gaming Player Protection Regulations

IN EXERCISE of the powers conferred by article 12 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Arrangement of these Regulations

		Regulations
Part I	Short Title and Definitions	
Part II	Responsible Gaming	
Part III	Protection of Player Funds	
Part IV	Unfair Terms	
Part V	Player Disputes	

Part I

Short Title and Definitions

1. The title of these regulations is the Player Protection Regulations.

Annex 6 - Gaming Player Protection Regulations

2. (1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations;

Title.

(2) In these regulations, “Regulations” means these Player Protection Regulations.

Part II Responsible Gaming

3. (1) An authorised person providing a gaming service shall produce sufficient evidence to the Authority to show that the following objectives are being satisfied thereby:

Responsible
Gaming objectives.

- (a) Ensuring that proper controls, policies and procedures are in place to prevent gaming by minors;
- (b) Ensuring that proper controls, policies and procedures are in place to protect vulnerable persons;
- (c) Ensuring that the interests of all players are adequately safeguarded and that players are provided with information on any and all avenues of recourse they may have if they feel aggrieved by a decision of the authorised person;
- (d) Ensuring that all information relevant to the gaming service is readily available to players;
- (e) Ensuring that information related to responsible gaming is readily available to players;
- (f) Ensuring that tools are readily available empowering players or any other persons to control their use of gaming services and to safeguard themselves from the effects of problem gaming; and
- (g) Ensuring that the marketing and advertising of the gaming service is fair and in accordance with the Advertising Regulations and any other applicable regulatory instrument or any other applicable law.

(2) The Authority may, by means of a directive or other binding instrument, further specify how any or all of the above objectives must be met by one or more categories of authorised persons.

Part III Protection of Player Funds

4. (1) An authorised person in possession of player funds shall hold such funds solely for and on behalf of and in the interest of that player.

Player funds to
constitute distinct
patrimony.

Annex 6 - Gaming Player Protection Regulations

(2) Notwithstanding anything stated in article 1894 of the Civil Code or in any agreement entered into between the authorised person and the player, and notwithstanding the fact that the player funds held by the authorised person are registered in the name and title of or are otherwise vested in the authorised person, such funds shall be deemed to constitute a distinct patrimony, separate from that belonging to the authorised person.

(3) Without prejudice to any relevant provisions of the Act, the control of player funds by an authorised person shall not give or be deemed or construed to give to the authorised person any rights over such funds; nor shall it create any form of loan between the authorised person and the player notwithstanding the nature of the funds or the rights or obligations of the authorised person in relation thereto.

5. A player whose player funds are held by the authorised person enjoys a right of ownership over such funds notwithstanding that they may be registered in the name and title of, or are otherwise vested in, the authorised person.

Player retains ownership of player funds.

6. (1) Notwithstanding anything stated in any other law, and notwithstanding anything stated in any agreement which the authorised person may have entered into, the creditors of an authorised person shall have no claim or right of action on or against the player funds held by the authorised person for and on behalf of and in the interest of any player, and such funds shall not be affected in any manner by the provisions of laws and regulations in force regulating the insolvency or bankruptcy of the authorised person:

Player funds protected from operator's creditors.

Provided that for the sake of clarity, any agreement or clause therein which conflicts with this sub-regulation shall, to the extent of such conflict, be deemed *ipso jure* null and void:

Provided further that in the event of commingling of player funds with the funds of the authorised person in contravention of this sub-regulation, the claims of players for player funds owed to them shall constitute a privileged claim, and shall be paid in preference to all other claims whether privileged or hypothecary.

(2) In the event of any such insolvency or bankruptcy or related order or resolution, or in the event that the Authority so requires, the authorised person or any administrator or receiver or other officer appointed to represent it by any court or otherwise shall, on demand of any player or of the Authority, immediately transfer the control, possession and title to all player funds held by such authorised person to such other person as may be instructed by the Authority.

Annex 6 - Gaming Player Protection Regulations

(3) In the event that any funds held under the control of the authorised person are, at the request of any creditor of the authorised person, made subject to any precautionary or executive act or warrant granted by any Court in terms of the Code of Organization and Civil Procedure, or any other similar measure, any players on whose behalf player funds are being held, the authorised person on behalf of the players or the Authority may, by application to the Court, request the release of the funds from such act, warrant or measure and the Court shall, on production of evidence as it may deem fit, accede to the application without undue delay.

7. (1) An authorised person shall segregate player funds at all times from the funds of any other person, provided that the funds of each player may be held in a player funds account. The funds of each player shall remain separately identifiable at all times.

Player funds to be kept segregated.

(2) The Authority may, in its sole discretion, exercise viewing rights over the common account of player funds.

8. Where the authorised person delegates or entrusts functions or duties relating to the management and, or holding of player funds to a third party, without prejudice to the liability of such third party towards the authorised person or otherwise, the authorised person shall be fully responsible for all regulatory requirements connected to player funds, and shall be liable towards players for any loss or prejudice suffered by such players as a result of the acts, omissions or insolvency of such third party.

Authorised person retains responsibility when outsourcing.

9. (1) Without prejudice to the other provisions in this Part or in the Act, the Authority may by means of a binding instrument specify in further detail the means by which an authorised person must safeguard player funds.

Authority may issue binding instrument.

(2) Without prejudice to the other provisions in this Part or in the Act, the Authority shall only allow a third party to hold player funds on behalf of the authorised person if it is satisfied that the player funds shall be adequately safeguarded thereby.

Part IV Unfair Terms

10. (1) Authorised persons shall ensure that the terms and conditions applicable to the provision of their gaming service are intelligible and easily accessible, and that changes thereto are made in a fair and transparent manner.

Criteria for terms and conditions.

(2) Where any provision in such terms and conditions is ambivalent, or any reasonable doubt arises as to the meaning thereof, the interpretation most favourable to the player shall prevail.

Annex 6 - Gaming Player Protection Regulations

11. Authorised persons shall ensure that the terms and conditions applicable to the provision of their gaming service are not unfair in terms of Part VII of the Consumer Affairs Act.

Unfair terms.

Part V Player Disputes

12. Players shall make use of a gaming service in a fair manner and shall comply with the terms and conditions applicable thereto.

Players must comply with terms and conditions.

13. (1) Authorised persons offering a gaming service shall make readily available to players the applicable procedures for making a complaint to the authorised person and for referring a complaint to the Player Support Unit or to another ADR entity in the event described in regulation 14.

Players to be informed of complaint mechanisms.

- (2)
- (a) Authorised persons offering a gaming service shall, upon receipt of a complaint made by a player who makes or has made use of their gaming service, immediately inquire into the complaint;
 - (b) Authorised persons shall inform the complainant of the results of such inquiry within ten days from the date on which the complaint is received:

Provided that where the nature of the inquiry is such that more time is necessary to complete it, such period may be extended by a further ten days:

Provided further that where such extension is necessary, the player shall be informed within the first ten days from the date of receipt of the complaint that the authorised person shall be making use of such extension, and the reason or reasons why such extension is warranted.

- (c) In communicating the results of the inquiry to the complainant, the authorised person shall also provide the complainant with the procedure for referring the complaint to the Authority's Player Support Unit or to another ADR entity in terms of regulation 14.

14. Where a player feels aggrieved by a decision or other action of the authorised person, he shall be able to make a complaint to the authorised person and, in the event that he is not satisfied by the response of the authorised person, the player may refer such complaint and all relevant facts to the Authority's Player Support Unit or to another ADR entity.

Players to be able to make complaint.

Annex 6 - Gaming Player Protection Regulations

15. (1) There shall be established by the Authority, whether as part of the Authority or as an independent entity, a Player Support Unit with the function of receiving complaints from players arising out of or in connection with any gaming service.

Player Support
Unit.

(2) Without prejudice to sub-regulation (3) hereof, the Player Support Unit shall, with respect to any complaint which shall be received thereby, examine the merits of such complaint and act as a mediator between the player and the relevant authorised person to facilitate an amicable settlement of the dispute.

(3) Without prejudice to the generality of the powers of officials of the Authority in terms of the applicable regulatory instruments and any other law, in investigating a complaint the Player Support Unit shall be entitled to demand any pertinent information from the relevant authorised person.

(4) The Authority may, by means of a binding instrument, establish the rules and procedures to which the Player Support Unit shall adhere, including but not limited to the minimum criteria for a complaint to be received and processed thereby.

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Annex 7 - Gaming Premises Regulations

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Prime Minister

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Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

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Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Gaming Premises Regulations

IN EXERCISE of the powers conferred by article 12 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Arrangement of these Regulations

		Regulations
Part I	Short Title, Definitions and Territoriality	
Part II	Approval of Gaming Premises	
Part III	Registration of Players in Gaming Premises	
Part IV	Self-Exclusion from Gaming	
Part V	Controlled Gaming Premises	

Part I
Short Title, Definitions and Territoriality

1. The title of these regulations is the Gaming Premises Regulations. Title
2. (1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations; Interpretation
- (2) In these regulations, unless the context otherwise requires:
“regulations” means these Gaming Premises Regulations.
3. (1) These regulations only apply to gaming premises in Malta:
- (2) Without prejudice to cruise casinos, no gaming service may be provided on vessels, aircraft or other vehicles in Malta.

Part II
Approval of Gaming Premises

4. No person shall person use, or knowingly or negligently allow the use of, whether actively or passively, premises in Malta to be used as gaming premises unless such person is in possession of a valid approval of such gaming premises in accordance with such procedure as may be prescribed by the Authority in a binding instrument.

Provided that the Authority may, by way of a binding instrument, exempt certain types or categories of gaming premises from the requirement of approval.

Part III
Registration of Players in Gaming Premises

5. (1) A gaming premises operator shall register all players forthwith upon their entry into the gaming premises, and in any case before they make use of its gaming service. Obligation to register.
- (2) Registration shall be carried out in such manner as the Authority may, by binding instrument, require.

Part IV
Self-Exclusion from Gaming

Annex 7 - Gaming Premises Regulations

6. (1) Gaming premises operators shall make readily available the possibility for any person to exclude themselves from gaming for a period of time or indefinitely, and the procedure whereby they may avail themselves of this opportunity, including such forms or other documentation as may be required.

Self-Exclusion to be made readily available.

(2) Gaming premises operators shall offer their assistance to any person that wishes to exclude himself from gaming and shall guide such person through the procedure to do so, duly explaining the contents of the procedure and its effects on the person to whom it shall apply.

7. (1) Without prejudice to regulation 7 hereof, the application for self-exclusion may only be submitted by the person to whom it shall apply.

Procedure for self-exclusion.

(2) Upon receiving the self-exclusion form, the gaming premises operator shall ensure that any information and documentation required is duly provided, and shall forthwith enter the person's details in the unified self-exclusion database.

(3) Where the application is made on a hard copy of the self-exclusion form, the completed application shall be sealed and secured forthwith in the self-exclusion submission box.

(4) The self-exclusion submission box shall be placed in a location behind the reception desk of the gaming premises which is clearly visible in security footage at all times.

(5) The contents of such submission box shall be collected by officers of the Authority from time to time, otherwise delivered to the Authority in such manner as the Authority may, by binding instrument or otherwise, prescribe.

(6) With respect to the unified self-exclusion database:

(a) Gaming premises operators shall ensure that they have in place all the necessary prerequisites to access the unified self-exclusion database at all times;

(b) If the gaming premises operator does not have access to the unified self-exclusion database for any reason outside of its control, it shall notify the Authority forthwith;

(c) If during such time a person fills in the relevant self-exclusion form, the gaming premises operator shall immediately notify the Authority of such person, and shall enter the person's details in the unified self-exclusion database forthwith upon regaining access thereto;

(d) Upon regaining access to the unified self-exclusion database, the gaming premises operator shall verify that all persons who entered the gaming premises during the time in which it was inaccessible were not self-excluded persons:

Annex 7 - Gaming Premises Regulations

Provided that if a self-excluded person entered the gaming premises during such time, the gaming premises operator shall immediately inform the Authority of such occurrence:

Provided further that if the self-excluded person is still within the gaming premises at such time, the gaming premises operator shall immediately terminate such person's game and return such person to the *status quo ante*, confiscating all winnings, if any, and returning the value of all stakes paid by the player. The gaming premises operator shall thereafter request such person to leave the premises immediately. In doing so the gaming premises operator may call upon the assistance of such officers of the Authority or of the Police as may be necessary to ensure the compliance of the self-excluded person.

(7) Whenever the unified self-exclusion database is not functioning, any person that becomes aware of such malfunction shall notify the Authority forthwith. During such time as the unified self-exclusion database is not functioning, the provisions of sub-regulation (6) hereof shall apply.

(8) Without prejudice to regulation 7 of these regulations, an exclusion of a person from gaming may only be implemented in terms of this regulation upon the request of such person.

(9) Any exclusion from gaming implemented in terms of this regulation shall only be removed upon request of the relevant player or upon expiry of the set duration, and the period thereof may only be decreased upon request of the relevant player.

(9) A notice by the player increasing the period of self-exclusion shall be effective immediately upon its receipt by the gaming premises operator.

(10) A notice by the player decreasing the period of self-exclusion or revoking it shall be effective only after the lapse of twenty-four hours from the day on which the gaming premises operator receives the notice.

8. (1) Persons who are confirmed by a competent medical professional as being pathological gamblers may present proof of such diagnosis to any gaming premises operator or to the Authority, accompanied by a duly filled in self-exclusion form.

Pathological gamblers.

(2) In any such case:

(a) If the recipient is a gaming premises operator, he shall forthwith take the steps envisaged in sub-regulation (2) of regulation 6 hereof, excluding the person from gaming for an indefinite period of time, and shall forthwith notify the Authority of the registration of a pathological gambler in the unified self-exclusion database;

Annex 7 - Gaming Premises Regulations

- (b) If the recipient is the Authority, it shall forthwith enter the person's details in the unified self-exclusion database, barring such person from gaming for an indefinite period of time:

Provided that in either case, the Authority shall inform all gaming premises operators of the registration of a pathological gambler in the unified self-exclusion database forthwith, subject to the consent of such person as may be required in terms of the Data Protection Act or any other applicable law.

(3) A person who has been excluded from gaming in terms of sub-regulation (2) hereof shall only be allowed to make use of a gaming service upon producing proof from a competent medical professional that he is no longer a pathological gambler.

- (4) (a) The exclusion envisaged in this regulation may also be requested by any interested person for any person who has been medically diagnosed as a pathological gambler.
(b) In any such case, the interested person shall apply in the manner envisaged in this regulation, specifying the person with regards to whom the exclusion is sought and his interest in the welfare of such person, and submitting all the necessary documentation to accompany the exclusion form.

9. Failure to adhere to the regulations envisaged in this Part shall amount to a criminal offence in terms of the Third Schedule of the Act.

Criminal liability.

Part V Controlled Gaming Premises

10. Controlled gaming premises shall, in order to be eligible for approval by the Authority, comply with all the provisions in this Part together with all other requirements applicable to gaming premises, and such other requirements as the Authority may, by binding instrument, prescribe.

Controlled gaming premises require approval.

11. (1) Controlled gaming premises shall have any and, or all access points to the premises located at a radial distance of not less than seventy-five metres from the centre of the respective entry points at the perimeter of:

Minimum distance from certain premises.

- (a) The following educational establishments:

Annex 7 - Gaming Premises Regulations

- (i) kindergartens;
- (ii) primary schools;
- (iii) secondary schools;
- (iv) post-secondary schools;
- (v) Tertiary Schools;
- (vi) special schools;
- (vii) child care centres;
- (viii) summer schools;
- (ix) commercial Schools
- (x) IT Schools;

Provided that this limitation shall not apply with respect to language schools.

- (b) Senior citizens' care facilities which shall include homes for the elderly and day-care centres;
- (c) Places of worship covering all religions;
- (d) General venues or infrastructures covering the following:
 - (i) M.U.S.E.U.M;
 - (ii) Substance Abuse Therapeutic Unit;
 - (iii) SEDQA;
 - (iv) Appoġġ;
 - (v) CARITAS;
 - (vi) Sports nurseries and, or training facilities;
- (e) Playgrounds and playing fields

Provided that the calculation shall be made from the centre of every entry point at the perimeter of the controlled gaming premises.

12. Without prejudice to regulation 10 hereof, every controlled gaming premises shall be located at a minimum walking distance of fifty metres from each other, which distance shall be calculated from the centre of every entry point of each proposed and, or approved controlled gaming premises.

Minimum distance from other controlled gaming premises.

Provided that for the purposes of this regulation “a minimum walking distance of fifty metres” shall be calculated as being the shortest distance to walk between the entry points of the proposed and, or approved controlled gaming premises without any regard for traffic or pedestrian regulations.

Provided further that the Authority shall, when the need arises for it to decide between two or more completed applications for the approval of controlled gaming premises received within the same month and which are all compliant with the distances established in regulations 10 and 11 hereof, give preference to the

Annex 7 - Gaming Premises Regulations

applicant who does not yet have controlled gaming premises within the town or village to which the applications relate.

Provided further that if more than one applicant qualifies as per the preceding proviso, or if all the applicants as contemplated in the preceding proviso all have controlled gaming premises within the town or village in question, preference shall be given to the applicant who submitted the first completed application to the Authority.

Provided further that if two or more completed applications are submitted on the same day and the preceding provisos cannot be applied, preference shall be given to the applicant who shall be determined by a ballot.

13. There shall not be more than one controlled gaming premises within any single venue or physical infrastructure, which shall include any residential, retail and, or entertainment complex.

No more than one controlled gaming premises in a single establishment or other premises.

Provided that the selection criteria envisaged in regulation 11 hereof shall also be implemented in the scenario whereby more than one completed application for controlled gaming premises in the same premises accessible to the public venue or physical infrastructure is received within the same month.

14. The Authority may appoint an independent certified architect and, or surveyor to perform an audit of a proposed or existing controlled gaming premises, at the applicant's or operator's expense respectively, in order to ascertain that such location is in conformity with this Part.

Appointment of architect at operator's expense.

15. (1) All applications for consideration of approval for the proposed location for controlled gaming premises must be accompanied by:

Contents of application for approval.

- (a) the relevant Planning Authority permit; and
- (b) a plan, on a scale of one is to one hundred (1:100) of the premises which complies with the following provisions as well as complying with any specific requirements that may be laid down for a particular type of gaming service.

(2) The plan must indicate:

- (a) the area in square metres;
- (b) the extent of the boundary or perimeter of the premises;
- (c) where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building and means of access between the buildings, if any;

Annex 7 - Gaming Premises Regulations

- (d) where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises;
- (e) the proposed gaming area, which shall cover that area in which gaming devices are proposed to be allocated;
- (f) the positioning of the gaming devices within the proposed gaming area;
- (g) the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads and the security features of each;
- (h) any other matter required in accordance with the specific conditions that may be laid down for any particular type of gaming service, in any binding instrument;
- (i) design, intensity and source of lighting of the gaming area, which should be adequately lit at all times. The intensity and movement of lighting, including that from the gaming devices themselves and any other commercial information and, or communication signs should not be conducive to over-stimulation to gamble;
- (j) sound proofing measures in order to ensure that the sound levels within the premises cannot be heard outside the main entrance;
- (k) the location and fixture of CCTV cameras and control console, ensuring that the gaming area allows for continuous surveillance of all players including when located within outdoor areas, if any;
- (l) the location, extent and layout of any other part of the premises which will be used for providing any other gaming service other than through gaming devices, if any;
- (m) the location, extent and layout of any part of the premises which will not be a gaming area, specifying what other activities and, or services will be offered;
- (n) the nature and location of barriers, security features or other fixtures separating any part of the premises in which gaming devices will be made available for use from any other part of the controlled gaming premises;
- (o) the proposed prominent location for the display of the summary of controlled gaming premises approval document;
- (p) the proposed design, location, size and materials of signs and information signs to be affixed to any part or parts of the façade;
- (q) a declaration certified by a registered surveyor or architect that the controlled gaming premises respect the parameters set out in this Part so as to warrant for a certificate of approval;
- (r) such other matters as the Authority may require.

16. An applicant seeking approval for proposed controlled gaming premises shall abide by such other requirements, including but not limited to requirements

Authority may impose other requirements.

Annex 7 - Gaming Premises Regulations

establishing procedures for public notice of the proposal to operate controlled gaming premises, as the Authority may, by binding instrument, determine.

17. (1) The Authority shall only approve controlled gaming premises that satisfy the following requirements:

Restrictions on operation.

- (a) the premises are operated, managed or otherwise controlled by persons which are deemed to be fit and proper by the Authority;
- (b) the premises have, as their sole and exclusive purpose, the offering of games provided through gaming devices and, for the avoidance of doubt, the making available for use, hosting or operation of amusement machines shall, in no case, take place in controlled gaming premises;
- (c) the premises have adequate restricted access controls, including but not limited to player registration, in accordance with any applicable regulatory instrument;
- (d) the premises contain no more than one gaming device per two square metres of the area in which the playing of games through gaming devices is designed to take place:

Provided that in aggregate the premises shall not contain more than ten gaming devices:

Provided further that in the case of gaming devices designed or adapted in such a way as to allow more than one player to use such gaming device simultaneously, for the purposes of the limitations set out in this paragraph, the number of any such gaming devices shall be multiplied by the aggregate number of players who can use such gaming device simultaneously;

- (e) the premises indicate on all access points, by means of an identification plate issued by the Authority, that such premises are approved controlled gaming premises;
- (f) the premises are equipped with closed circuit television cameras, which are in operation twenty-four hours a day, every day of the week, and on which all gaming devices, the reception area where registration is carried out, and the self-exclusion submission box are clearly visible and footage recorded by such closed circuit television cameras is stored for a minimum of sixty days;

(2) Without prejudice to the above and to any other requirements in terms of any other applicable law or regulatory instrument, controlled gaming premises shall:

- (a) be dedicated solely to gaming as the sole activity, unless the Authority directs otherwise. The offering of food or beverages,

Annex 7 - Gaming Premises Regulations

amongst others, is considered to constitute an ancillary activity and accordingly is not permitted to be carried out in controlled gaming premises;

- (b) not be accessible directly from any other premises which are not included in the site plans submitted to the Authority and the planning authority;
- (c) not permit the gaming area to be visible to passing pedestrian traffic;
- (d) provide for a registration area to be located at the entrance of the gaming premises for the purpose of registering every person prior to entry in terms of these regulations and any other applicable law or regulatory instrument. There shall not be any direct street access to the gaming area of controlled gaming premises;
- (e) be operated in such a manner as to ensure that no person may make use of the gaming service provided therein unless such person has been registered in accordance with any applicable regulatory instrument and, or other law;
- (f) be operated in such a manner as to ensure at all times that the making available for use, hosting or operation of a relevant gaming device therein is carried out in a secure, safe and proper manner;
- (g) be structured and operated in a manner which ensures that during the opening hours of the controlled gaming premises, the area in which the playing of games is designed to take place is constantly supervised by employees;
- (h) be opened for business solely between the hours of eleven in the morning and eleven in the evening (11:00 a.m. and 11:00 p.m.); and

(3) Controlled gaming premises shall also conform with any other requirements as the Authority may, by binding instrument, establish.

18. (1) Without prejudice to any other law or regulatory instrument, when considering whether or not to issue a controlled gaming premises approval, the Authority shall *inter alia* consider:

- (a) the extent to which gaming is offered to the public in the general area or venue or establishment in which the controlled gaming premises are situated;
- (b) whether alternative entertainment exists within the general area or venue or establishment in which the controlled gaming premises are situated;
- (c) whether the general layout design and plan meet the objectives and requirements of the Act and all other regulatory instruments; and

Matters considered
by the Authority.

Annex 7 - Gaming Premises Regulations

(d) any other factors and requirements as may be objectively and reasonably justified and appropriate by the Authority to fulfil its functions and regulatory objectives.

(2) On the basis of its consideration of the matters envisaged in sub-regulation (1) hereof and any other relevant matter, the Authority may require the applicant to modify its plans and proposal in order to reach the objectives of the Act and other applicable regulatory instruments.

(3) The Authority shall not approve any proposed controlled gaming premises if it considers on reasonable grounds that there will be a negative impact on the amenity of the general area or wider community where the controlled gaming premises shall be situated.

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Annex 8 - Gaming Tax Regulations

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Prime Minister

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Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

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Executive Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Gaming Tax Regulations

IN EXERCISE of the powers conferred by article 12 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Arrangement of the Regulations

		Regulation
Part I	Short Title and Definitions	1 and 2
Part II	Gaming Tax	3
Part III	Levy on Gaming Devices	4 and 5
Part IV	Payment	6
Part V	Returns and Assessment	7
Part VI	Objections and Appeals	8
Part VII	Transitory Provisions	<<X>>

Part I
Short Title and Definitions

1. The title of these regulations is the Gaming Tax Regulations. Title.
2. (1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations. Interpretation.
- (2) In these regulations, unless the context otherwise requires:
- “First Schedule” means the First Schedule to the Regulations;
- “Gaming Device” means any device or object, including any electrical, electronic, or mechanical device, ticket or any other thing, that is used as part of a gaming service or in connection therewith in a Gaming Premises;
- “Gaming Revenue” means the aggregate stakes and wagers, inclusive of any bonus or other player incentives which are comprised within any stake or wager, less an amount to be determined by summing up the aggregate player winnings to the aggregate of any bonus or other player incentives which are comprised within the amount of aggregate stakes and wagers, during a Tax Period and, where applicable, the term ‘aggregate stakes and wagers’ as used herein shall also include:
- i) tournament fees and other such like elements of revenue; and
 - ii) Charge;
- “Gaming Premises” means any premises situated in Malta which is accessible to the public and which is used for players to participate in a gaming service;

Annex 8 - Gaming Tax Regulations

“Qualifying Activity”	means any activity which consists of providing or carrying out a Gaming Service from Malta or to any person in Malta, subject to the requirement of a licence in terms of regulation 3 of the Gaming Authorisations Regulations, which for the avoidance of doubt shall include the persons mentioned in regulations 8 and 22, but not the persons mentioned in regulations 5, 7, 29, 30 and 31 of the Gaming Authorisations Regulations, and the term “Qualifying Activities” shall be read and construed accordingly;
“Charge”	means the actual revenue derived from the provision of either Type 3 gaming services or Type 4 gaming services, whether computed by way of commission or otherwise, after the deduction of any bonus or other player incentives;
“Regulations”	means the Gaming Tax Regulations;
“Tax Period”	means the financial year of the person conducting a Qualifying Activity;
“Type 1 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations;
“Type 2 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations;
“Type 3 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations;
“Type 4 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations;

Part II Gaming Tax

3. Any person offering any gaming service to any player who is physically present in Malta at the time when the gaming service is actually provided shall, in addition to the levy on gaming devices, if any, imposed in terms of Regulation 4, pay to the Authority, for each Tax Period, gaming tax to be computed at the rate of five (5%) per cent of the Gaming Revenue generated from the said gaming services during the relevant Tax Period:

Gaming tax.

Provided that where the gaming service is provided by a corporate group holding a licence in terms of sub-regulation (3) of Regulation 10 of the Gaming Authorisations Regulations, the entire corporate group shall be considered to be the “person” for the purposes of this regulation..

Part III Levy on Gaming Devices

4. There shall be due and payable to the Authority in each and every Tax Period a levy on gaming devices. The levy shall be computed in the manner stipulated in Regulation 5 and shall be payable jointly and severally by the person or persons deploying any gaming device for the provision or conduct of any Qualifying Activity.

Levy on Gaming Devices.

Provided that, for the purposes of the Regulations, the person deploying the gaming device for the provision or conduct of a Qualifying Activity shall be deemed to be the licensee under whose licence the Qualifying Activity is undertaken and, in the absence of a valid licence, it shall be each and every person directly or indirectly enjoying any economic benefit generated by, or as a result of, the deployment of the said gaming device.

5. (1) The levy on gaming devices payable by any person for each and every Tax Period in terms of Regulation 4 shall be determined by aggregating the amounts resulting from the computational method prescribed in Regulations 5(2), 5(3), 5(4) and 5(5).

Levy Rate.

(2) The levy on gaming devices payable in each and every Tax Period by reference to gaming devices deployed in the provision or conduct of Type 1, Type 2, Type 3, and, or Type 4 gaming services shall be determined in the manner stipulated in the First Schedule by

Annex 8 - Gaming Tax Regulations

reference to the aggregate Gaming Revenue generated during the Tax Period from all gaming devices deployed by that person in the provision or conduct of Type 1, Type 2, Type 3, and, or Type 4 gaming services.

Part IV Payment

6. (1) The amounts payable in terms of these regulations for any given Tax Period shall be paid throughout the Tax Period by way of monthly payments to be calculated on the Gaming Revenue accrued during each and every month falling within a Tax Period (“Reference Month”). The tax due shall be paid together with the submission of any return required in terms of Regulation 10 on the twentieth (20th) day of that month next following the Reference Month (“Settlement Month”).

Method of
payment.

(2) At the end of each Reference Month the Gaming Revenue generated from each type of gaming services during that month shall be determined and the corresponding amount of gaming tax as due in terms of Regulation 3 and the levy on gaming devices as due in terms of Regulations 4 shall be computed as prescribed in the Regulations.

(3) Where required for the purpose of determining the rate at which the levy on gaming devices is to be charged on Gaming Revenue arising in any Reference Month in terms of Regulation 5, the Gaming Revenue generated from each type of gaming services during the relevant Reference Month shall be aggregated to the Gaming Revenue generated from the corresponding type of gaming services during each of the prior Reference Months of the relevant Tax Period.

(4) Where any amount payable in terms of the Regulations is not paid when due, interest shall be due and payable at the rate prescribed in rule 2 of the Income Tax (Interest Rate) Rules, which rate shall be applied to the unpaid amount for each month or part thereof for which the amount remains unpaid.

S.L. 372.28.

(5) In any circumstances in which the amount actually paid in terms of Regulations 3 or 4 exceeds the amount actually due by that person in terms of Regulations 3 and 4 for that Tax Period, the excess shall not be refundable and no interest shall accrue thereon in favour of

Annex 8 - Gaming Tax Regulations

the payor but the said excess shall be available for set-off against any amount payable by that person in terms of Regulations 3 and 4 in any Tax Period commencing after the termination of the Tax Period in which or by reference to which the excess was paid.

(6) The Minister may by regulations prescribe rules allowing a credit of other turnover tax actually paid in Malta to the relevant local competent Authority by the holder of a licence falling under paragraph (a) of article 1 of the First Schedule to the Gaming Authorisations Regulations, against all or any amount due and payable under the Regulations, subject to such conditions as shall be prescribed.

(7) The Authority may, with the consent of the Minister, by binding instrument issued by the Board regulate the granting of any reduction, credit, set-off or other relief in respect of any amount payable under the Regulations, which shall be granted either on a unilateral basis or pursuant to bilateral or multilateral treaties, agreements, memorandum of understanding or other arrangements entered into with any foreign government or any local or foreign authority or government agency.

Part V

Returns and Assessment

7. (1) Any person who undertakes any one or more Qualifying Activities shall furnish to the Authority a return in the form as shall be prescribed for every Reference Month falling within any Tax Period by not later than the twentieth (20th) day of the Settlement Month and any such other returns, statements, documents or information as may be requested or prescribed.

(2) When any person who undertakes any one or more Qualifying Activities does not furnish a return when due in terms of the Regulations or makes a return which in the opinion of the Authority is incorrect, the Authority may make an assessment of the amount payable under the Regulations to which that person became liable and shall serve that assessment on that person at any time after the expiration of the time allowed in terms of the Regulations for the furnishing of that return.

(3) When any return furnished by a person to the Authority contains an understatement of any amount payable under the Regulations, that person shall become liable to an administrative penalty in an

Annex 8 - Gaming Tax Regulations

amount equivalent to twenty (20%) per cent of the understated amount:

Provided that where a person corrects an understatement as is referred to in this sub-regulation before he is served with an assessment by the Authority, that person shall only become liable to an administrative penalty in an amount equivalent to ten (10%) per cent of the understated amount.

(4) An assessment shall not relieve the person from his obligation to furnish a return.

(4) When a return is furnished after an assessment has been made in accordance with sub-regulation (2), the Authority may at its discretion amend or cancel that assessment, as the case may be.

Part VI Objections and Appeals

8. (1) Any person who undertakes any one or more Qualifying Activities who is issued with an assessment by the Authority may object to the assessment in writing within twenty (20) days of receipt of the assessment.

(2) Upon receipt of the objection referred to in Regulation 8(1), the Authority shall, within thirty (30) days of receipt thereof, either confirm the original assessment and provide reasons for the refusal of the objection made or shall communicate to the person making the objection a revised assessment which revised assessment shall constitute a new assessment of the purposes of Regulation 8(1).

Provided that the period referred to in sub-regulation (2) above, may be extended by a further thirty (30) days following a notice by the Authority to the relevant person.

(3) The person in receipt of the refusal of objection referred to in Regulation 8(2) may enter an appeal in terms of article 43 of the Act:

Provided that without prejudice to articles 44 and 45 of the Act, an appeal against an assessment shall not be valid if:

- (a) the return for the period to which the assessment refers has not been delivered to the Authority before the appeal is entered;
- (b) any amount due by the person to the Authority which is not in dispute has not been paid;

Annex 8 - Gaming Tax Regulations

- (c) it is not made within twenty (20) days from the date of receipt of the refusal of objection referred to in Regulation 8(2);
 - (d) it is not made in such form and in such manner as may be prescribed under the Act, or the Administrative Justice Act.
- (4) The onus of proving that any amount assessed by the Authority is correct shall lie on the appellant.
- (5) The Tribunal shall deliver its decision in writing and shall cause a copy of the decision to be given to the appellant.
- (6) Any person who undertakes any one or more Qualifying Activities and who, having appealed to Tribunal feels aggrieved by the decision of the Tribunal, may appeal against that decision on a question of law only to the Court of Appeal in accordance with article 46 of the Act.
- (7) Where no valid appeal against an assessment has been lodged within the time limits prescribed in the Regulations, or where the appeal has been withdrawn or discontinued, or where the amount of tax payable has been determined on appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive as regards the amount payable in terms of Regulations 3 and 4 for the period or periods to which the assessment refers.
- (8) Once an assessment is final and conclusive it shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.
- (9) Once an assessment is final and conclusive the Authority may request the payment of the amount payable by means of a demand note, and if payment is not made within fifteen (15) days from the date of the service of such demand note, the Authority may proceed to enforce payment in virtue of the executive title referred to in Regulation 8(6) after two (2) days from the service on the debtor of an intimation for payment made by means of a judicial act. Upon the lapse of the period of two days mentioned in this sub-regulation the Authority shall be entitled to register in the public registry or land registry, as the case may be, a note of privilege for the amount demanded in the judicial act which note of privilege shall be registered by any advocate or notary.
- (10) The provisions of article 468 of the Code of Organization and Civil Procedure shall apply with respect to any warrant issued on the

Annex 8 - Gaming Tax Regulations

strength of an executive title mentioned in this Regulation 8 and to the paying out of the proceeds of the sale by auction of the property seized, and no opposition or reservation in the schedule of deposit shall stay the paying of any sum deposited in court following any such warrant as aforesaid.

Part VII Transitory Provisions

<To be inserted at a later date>

DRAFT

First Schedule
Levy on Gaming Devices

Cumulative Gaming Revenue for the tax period	Applicable Rate
For every euro of the first €500,000	14.00%
For every euro of the next €1,000,000	20.00%
For every euro of the next €1,500,000	26.00%
For every euro of the next €2,000,000	32.00%
For every euro of the next €7,500,000	34.00%
For every euro of the next €12,500,000	36.00%
For every euro of the remainder	38.00%

Annex 9 - Gaming Licence Fees Regulations

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Prime Minister

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Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

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Executive Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Gaming Licence Fees Regulations

IN EXERCISE of the powers conferred by article 12 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Arrangement of these Regulations

		Regulation
Part I	Short Title and Definitions	1 and 2
Part II	Annual Licence	3 and 4
Part III	Other Administrative Fees	5
Part IV	Payment	6
Part V	Returns and Assessments	7
Part VI	Objections and Appeals	8
Part VII	Non-Applicability	9
Part VIII	Transitory Provisions	<<X>>

Part I
Short Title and Definitions

1. The title of these regulations is the Gaming Licence Fees Regulations. Title.
2. (1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases shall have the meaning as prescribed in the Gaming Definitions Regulations. Interpretation.
- (2) In these regulations, unless the context otherwise requires:
- “First Schedule” means the First Schedule to these Regulations;
- “Fixed Annual Licence Fee” means the amount stipulated in part E of the First Schedule;
- “Fourth Schedule” means the Fourth Schedule to these Regulations;
- “Gaming Revenue” means the aggregate stakes and wagers, inclusive of any bonus or other player incentives which are comprised within any stake or wager, less an amount to be determined by summing up the aggregate player winnings to the aggregate of any bonus or other player incentives which are comprised within the amount of aggregate stakes and wagers, transacted under the terms of the licence referred to in regulation 3(1) during a Licence Period and, where applicable, the term ‘aggregate stakes and wagers’ as used herein shall also include:
- i) tournament fees and other such like elements of revenue; and
 - ii) Charge;

Annex 9 - Gaming Licence Fees Regulations

“Licence Period”	means the financial year of the taxpayer;
“Qualifying Activity”	means any activity which consists of providing or carrying out a Gaming Service from Malta or to any person in Malta and the term “Qualifying Activities” shall be read and construed accordingly;
“Charge”	means the actual revenue derived by a person during the Licence Period from the provision of either Type 3 gaming services or Type 4 gaming services, whether computed by way of commission or otherwise, after the deduction of any bonus or other player incentives;
“Regulations”	means these Gaming Licence Fees Regulations;
“Revenue”	shall, for the purposes of regulations 4(1) and 4(2) of these Regulations, the Second Schedule and the Third Schedule, mean the actual revenue derived by the person in possession of the licence referred to in regulation 4(1) and 4(2) during the Licence Period and which revenue shall be determined on the basis of generally accepted accounting principles and practice as defined in article 2(4) of the Companies Act, Chapter 386 of the Laws of Malta;
“Second Schedule”	means the Second Schedule to these Regulations;
“Third Schedule”	means the Third Schedule to these Regulations;
“Type 1 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations;

Annex 9 - Gaming Licence Fees Regulations

“Type 2 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations;
“Type 3 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations;
“Type 4 gaming services”	means the games defined as such in the First Schedule to the Gaming Authorisations Regulations; and
“Variable Licence Fee”	means the aggregate of the amounts, including where applicable the minimum amount or the maximum amount as the case may be, resulting from the application of the computational method prescribed in each of regulations 3(2), 3(3), 3(4) and 3(5).

Part II Annual Licence

3. (1) Any person in possession of a licence issued by the Authority falling under paragraph (a) of article 1 of the First Schedule to the Gaming Authorisations Regulations, but excluding a limited duration licence, shall pay to the Authority a licence fee which shall be constituted of:
- i. The Variable Licence Fee, payable for each and every Licence Period; and
 - ii. The non-refundable Fixed Annual Licence Fee, payable in advance for the twelve (12) running months following the issue of the licence and every anniversary thereof, throughout the duration of the licence.

Provided further that where the gaming service is provided by a corporate group holding a licence in terms of sub-regulation (3) of Regulation 10 of the Gaming Authorisations Regulations, the entire corporate group shall be considered to be the “person” for the purposes of this regulation.

Annual licence fee for licensed gaming services.

Annex 9 - Gaming Licence Fees Regulations

(2) The Variable Licence Fee payable on Qualifying Activities consisting of Type 1 gaming services shall be determined in the manner stipulated in Part A of the First Schedule by reference to the Gaming Revenue generated during the Licence Period from the said Type 1 gaming services.

(3) The Variable Licence Fee payable on Qualifying Activities consisting of Type 2 gaming services shall be determined in the manner stipulated in Part B of the First Schedule by reference to the Gaming Revenue generated during the Licence Period from the said Type 2 gaming services:

Provided that, for each and every Licence Period, except the Licence Period during which the licence is first acquired, the Variable Licence Fee component payable by any person in respect of Type 2 gaming services shall not be less than twenty-five thousand euro (€25,000) and shall not exceed six hundred thousand euro (€600,000).

(4) The Variable Licence Fee payable on Qualifying Activities consisting of Type 3 gaming services shall be determined in the manner stipulated in Part C of the First Schedule by reference to the Gaming Revenue generated during the Licence Period from the said Type 3 gaming services:

Provided that for each and every Licence Period, except the Licence Period during which the licence is first acquired, the Variable Licence Fee component payable by any person in respect of Type 3 gaming services shall not be less than twenty-five thousand euro (€25,000) and shall not exceed five hundred thousand euro (€500,000).

(5) The Variable Licence Fee payable on Qualifying Activities consisting of Type 4 gaming services shall be determined in the manner stipulated in Part D of the First Schedule by reference to the Gaming Revenue generated during the Licence Period from the said Type 4 gaming services:

Provided that for each and every Licence Period, except the Licence Period during which the licence is first acquired, the Variable Annual Licence Fee component payable by any person in respect of Type 4 gaming services shall not be less than five thousand euro (€5,000) and shall not exceed five hundred thousand euro (€500,000).

Annex 9 - Gaming Licence Fees Regulations

4. (1) Any person in possession of a licence issued by the Authority falling under paragraph (b) of article 1 of the First Schedule to the Gaming Authorisations Regulations and providing a gaming supply falling under paragraph (a) of article 3 of the said Schedule shall pay to the Authority, in advance for the twelve (12) running months following the issue of the licence and every anniversary thereof, throughout the duration of the licence, a licence fee which shall be determined in the manner stipulated in the Second Schedule.

Licence fees for licensed critical gaming supply.

- (2) For any person in possession of a licence falling under paragraph (b) of article 1 of the First Schedule to the Gaming Authorisations Regulations and providing a gaming supply falling under paragraphs (b) and (c) of article 3 of the said Schedule, the annual licence fee payable by reference to that activity shall not be determined in the manner stipulated in the Second Schedule but shall instead be determined in the manner stipulated in the Third Schedule.

Provided that if a person in possession of a licence falling under paragraph (b) of article 1 of the First Schedule to the Gaming Authorisations Regulations is providing gaming supplies falling under both paragraph (a), as well as any or all of the gaming supplies falling under paragraphs (b) and, or (c) of article 3 of the said Schedule, the licence fee payable shall be determined in accordance with regulation 4(1) above.

Part III Other Administrative Fees

5. (1) The Authority shall levy any administrative fees as it is empowered to do so in terms of the Act and the subsidiary legislation enacted thereunder.
- (2) Any person, including any licensee, submitting any application, or requesting any approval shall pay to the Authority the administrative fees referred to in the Fourth Schedule.
- (3) The list of administrative fees in the Schedule is not exhaustive, and the Authority may prescribe any other administrative fees due to it by virtue of a regulatory instrument.

Administrative fees.

Part IV Payment

Annex 9 - Gaming Licence Fees Regulations

6. (1) The amounts payable in terms of these regulations for any given Licence Period shall be paid throughout the Licence Period in the following manner:

Method of payment.

(a) any part of the Variable Licence Fee constituting a fixed or minimum amount, shall be paid, together with the submission of any return required in terms of Regulation 7, before the expiration of the twentieth (20th) day of that month commencing immediately after the month in which the Licence Period commences;

and

(b) any other part of the Variable Licence Fee not falling under (a) above, shall be paid by way of monthly payments to be calculated on the Gaming Revenue accrued during each and every month falling within a Licence Period ("Reference Month"). The amount due shall be paid together with the submission of any return required in terms of Regulation 7 on the twentieth (20th) day of that month next following the Reference Month ("Settlement Month").

(2) At the end of each Reference Month, the Gaming Revenue generated from each type of gaming services during that month shall be determined and the Variable Licence Fee due in terms of Regulation 3, shall be computed as prescribed in the Regulations.

(3) Where required for the purpose of determining the amount of the Variable Licence Fee, if any, to be paid in any Settlement Month in terms of Regulation 3(2) or the rate at which the Licence Fee is to be computed on Gaming Revenue arising in any Reference Month in terms of Regulations 3(3), 3(4) and 3(5), the Gaming Revenue generated from each type of gaming services during the relevant Reference Month shall be aggregated to the Gaming Revenue generated from the corresponding type of gaming services during each of the prior Reference Months of the relevant Licence Period.

Provided that any amount, other than the Fixed Annual Licence Fee, which has been paid by reference to the minimum amounts stipulated in Regulations 3(3), 3(4) and 3(5) pursuant to the requirement of regulation 6(1)(a) shall first be deducted from the corresponding amount due in terms Regulations 3(3), 3(4) and 3(5) respectively before any additional payments shall be due pursuant to the requirements of Regulation 6(1)(b).

Annex 9 - Gaming Licence Fees Regulations

(4) Where any amount payable in terms of the Regulations is not paid when due, interest shall be due and payable at the rate prescribed in rule 2 of the Income Tax (Interest Rate) Rules, which rate shall be applied to the unpaid amount for each month or part thereof for which the amount remains unpaid.

S.L. 372.28.

(5) In any circumstances in which the amount actually paid in terms of Regulations 3 or 4 exceeds the aggregate amount actually due by that person in terms of Regulations 3 and 4 for that Licence Period, the excess shall not be refundable and no interest shall accrue thereon in favour of the payor but the said excess shall be available for set-off against any amount payable by that person in terms of Regulations 3 and 4 in any Licence Period commencing after the termination of the Licence Period in which or by reference to which the excess was paid.

(6) The Authority may, by binding instrument issued by the Board, regulate the granting of any reduction, credit, or other relief in respect of any amount payable under the Regulations, which shall be granted either on a unilateral basis or pursuant to bilateral or multilateral treaties, agreements, memorandum of understanding or other arrangements entered into with any foreign government or any local or foreign authority or government agency.

Part V

Returns and Assessments

7. (1) Any person in possession of any licence referred to in Regulations 3 or 4 shall furnish to the Authority a return in the form as shall be prescribed for every Reference Month falling within any Licence Period by not later than the twentieth (20th) day of the Settlement Month and any such other returns, statements, documents or information as may be requested or prescribed.

Returns and assessments.

(2) When any person that undertakes any one or more Qualifying Activities does not furnish a return when due in terms of the Regulations or makes a return which in the opinion of the Authority is incorrect, the Authority may make an assessment of the amount payable under the Regulations to which that person became liable and shall serve that assessment on that person at any time after the expiration of the time allowed in terms of the Regulations for the furnishing of that return.

Annex 9 - Gaming Licence Fees Regulations

(3) When any return furnished by a person to the Authority contains an understatement of any amount payable under the Regulations, that person shall become liable to an administrative penalty in an amount equivalent to twenty (20%) per cent of the understated amount:

Provided that where a person corrects an understatement as is referred to in this sub-regulation before he is served with an assessment by the Authority, that person shall only become liable to an administrative penalty in an amount equivalent to ten (10%) per cent of the understated amount.

(4) An assessment shall not relieve the person from his obligation to furnish a return.

(5) When a return is furnished after an assessment has been made in accordance with sub-regulation (2), the Authority may at its discretion amend or cancel that assessment, as the case may be.

Part VI Objections and Appeals

8. (1) Any person who undertakes any one or more Qualifying Activities who is issued with an assessment by the Authority may object to the assessment in writing within twenty (20) days of receipt of the assessment.

Appeals.

(2) Upon receipt of the objection referred to in Regulation 8(1), the Authority shall, within thirty (30) days of receipt thereof, either confirm the original assessment and provide reasons for the refusal of the objection made or shall communicate to the person making the objection a revised assessment which revised assessment shall constitute a new assessment of the purposes of Regulation 8(1):

Provided that the period referred to in sub-regulation (2) above, may be extended by a further thirty (30) days following a notice by the Authority to the relevant person.

(3) The person in receipt of the refusal of objection referred to in Regulation 8(2) may appeal against the assessment in accordance with article 43 of the Act:

Provided that without prejudice to articles 44 and 45 of the Act an appeal against an assessment shall not be valid if:

(a) the return for the period to which the assessment refers has not been delivered to the Authority before the appeal is entered;

Annex 9 - Gaming Licence Fees Regulations

- (b) any amount due by the person to the Authority which is not in dispute has not been paid;
- (c) it is not made within twenty (20) days from the date of receipt of the refusal of objection referred to in Regulation 8(2);
- (d) it is not made in such form and in such manner as may be prescribed under the Act, or the Administrative Justice Act.

Cap. 490 of the
Laws of Malta.

(4) The onus of proving that any amount assessed by the Authority is incorrect shall lie on the appellant.

(5) The Tribunal shall deliver its decision in writing and shall cause a copy of the decision to be given to the Authority, and the appellant.

(6) Any person who undertakes any one or more Qualifying Activities and who, having appealed to Tribunal feels aggrieved by the decision of the Tribunal, may appeal against that decision on a question of law only to the Court of Appeal in accordance with article 46 of the Act.

(7) Where no valid appeal against an assessment has been lodged within the time limits prescribed in the Regulations, or where the appeal has been withdrawn or discontinued, or where the amount payable has been determined on appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive as regards the amount payable in terms of Regulations 3 and 4 for the Licence Period or periods to which the assessment refers.

(8) Once an assessment is final and conclusive it shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

(9) Once an assessment is final and conclusive the Authority may request the payment of the amount payable by means of a demand note, and if payment is not made within fifteen (15) days from the date of the service of such demand note, the Authority may proceed to enforce payment in virtue of the executive title referred to in Regulation 8(6) after two (2) days from the service on the debtor of an intimation for payment made by means of a judicial act. Upon the lapse of the period of two days mentioned in this sub-regulation the Authority shall be entitled to register in the public registry or land registry, as the case may be, a note of privilege for the amount demanded in the judicial act which note of privilege shall be registered by any advocate or notary.

Annex 9 - Gaming Licence Fees Regulations

(10) The provisions of article 468 of the Code of Organization and Civil Procedure shall apply with respect to any warrant issued on the strength of an executive title mentioned in this Regulation 8 and to the paying out of the proceeds of the sale by auction of the property seized, and no opposition or reservation in the schedule of deposit shall stay the paying of any sum deposited in court following any such warrant as aforesaid.

Part VII Non-Applicability

9. (1) Notwithstanding anything contained in the Regulations, Start-up Undertakings shall not incur the Variable Licence Fee payable by reference to the Gaming Revenue generated from Qualifying Activities provided by the holder of a licence falling under paragraph (a) of article 1 of the First Schedule to the Gaming Authorisations Regulations during the first six (6) months of operations, which six (6) month period shall be reckoned from the date on which the licence is issued by the Authority and for the purpose of all and any computations required in terms of Regulation 3 and the First Schedule the Gaming Revenue generated from Qualifying Activities during the said six (6) month period shall be deemed to be nil, .

Fees for Start-up Undertakings.

Provided that the above shall be without prejudice to any obligation to report the said Gaming Revenue in any return or submission required to be made in terms of Regulation 7.

- (2) For the purposes of regulation 9(1) above, a 'Start-up Undertaking' shall mean a person, who, at the date of the licence application, fulfils all of the following criteria:

- (a) Has been established or operational in the same or a related sector for less than five (5) years;

Provided that, unless the business is operated in a different form, establishment shall mean date of registration in the case of limited liability companies, the date of the agreement establishing a partnership, the date of registration as a self-employed person, or as may otherwise be determined by the Authority.

- (b) In the case of a body corporate, has not yet distributed profits;

- (c) In the case of a body corporate, has not formed through a merger or, if formed through a merger, all body corporates that

Annex 9 - Gaming Licence Fees Regulations

formed part of the merger satisfy, in aggregate, all criteria envisaged herein;

(d) Has not acquired the business as a going concern or, if so, the acquirer and the acquired both satisfied all criteria envisaged herein;

(e) Having generated actual revenue from the same, or a related sector during the previous Financial Period amounting to less than ten million euro (€10,000,000);

Provided that where the Financial Period cannot be determined, or is not applicable, the previous twelve (12) calendar months shall be taken into consideration.

(f) Is not part of, or controlled by, a corporate group whose actual revenue in the same, or a related sector exceeds ten million euro (€10,000,000); and

(g) Is not subject to the requirement of a Government Concession to offer the gaming service as per the proviso to regulation 4 of the Gaming Authorisations Regulations.

Provided that in the case of a body corporate, if the person referred to in regulation 9(2) above has taken over the business from any person having a qualifying interest in the former, the provisions of this regulation 9(2) shall extend accordingly to the person having a qualifying interest in the applicant.

Provided further that actual revenue referred to in regulations 9(2)(e) and (f) above, shall be determined on the basis of generally accepted accounting principles and practice as defined in article 2(4) of the Companies Act.

(3) A person shall be deemed to be a Start-up Undertaking only upon the Authority's confirmation, and the Authority shall be vested with discretion to determine whether a person is a Start-up Undertaking in terms of this regulation:

Provided that the onus to prove that a person is indeed a Start-up Undertaking shall be vested with the same applicant.

**Part VIII
Transitory Provisions**

<To be inserted at a later date>

DRAFT

FIRST SCHEDULE

*Licence fees payable in terms of
Regulation 3 of the Regulations*

Part A - Type 1 gaming services

Variable License Fee for the Licence Period	Amount
Where Gaming Revenue does not exceed €1,000,000	€12,000
Where Gaming Revenue does not exceed €5,000,000	€54,000
Where Gaming Revenue does not exceed €10,000,000	€120,000
Where Gaming Revenue does not exceed €20,000,000	€210,000
Where Gaming Revenue does not exceed €45,000,000	€330,000
Where Gaming Revenue does not exceed €75,000,000	€480,000
Where Gaming Revenue exceeds €75,000,000	€660,000

Part B - Type 2 gaming services

Variable License Fee for the Licence Period	Rate
For every euro of the first €3,000,000	4.00%
For every euro of the next €4,500,000	3.00%
For every euro of the next €5,000,000	2.00%
For every euro of the next €7,500,000	1.00%
For every euro of the next €10,000,000	0.80%
For every euro of the next €10,000,000	0.60%
For every euro of the remainder	0.40%

Part C - Type 3 gaming services

Variable License Fee for the Licence Period	Rate
For every euro of the first €2,000,000	4.00%
For every euro of the next €3,000,000	3.00%
For every euro of the next €5,000,000	2.00%
For every euro of the next €5,000,000	1.00%
For every euro of the next €5,000,000	0.80%
For every euro of the next €10,000,000	0.60%
For every euro of the remainder	0.40%

Part D - Type 4 gaming services

Annex 9 - Gaming Licence Fees Regulations

Variable License Fee for the Licence Period	Rate
For every euro of the first €2,000,000	0.50%
For every euro of the next €3,000,000	0.75%
For every euro of the next €5,000,000	1.00%
For every euro of the next €5,000,000	1.25%
For every euro of the next €5,000,000	1.50%
For every euro of the next €10,000,000	1.75%
For every euro of the remainder	2.00%

Part E – Fixed Annual License Fee

	Fixed Annual licence fee
Fixed Annual License Fee	€25,000

SECOND SCHEDULE

*Licence fees payable in terms of
Regulation 3(b) of the Regulations*

	Annual licence fee
Where annual Revenue does not exceed €5,000,000	€25,000
Where annual Revenue exceeds €5,000,000 but does not exceed €10,000,00	€30,000
Where annual Revenue for the year exceeds €10,000,000	€35,000

THIRD SCHEDULE

*Licence fees payable in terms of
Regulation 3(c) of the Regulations*

	Annual licence fee
Where annual Revenue does not exceed €1,000,000	€3,000
Where annual Revenue exceeds €1,000,000	€5,000

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Annex 9 - Gaming Licence Fees Regulations

FOURTH SCHEDULE

*Administrative fees payable in terms of
Regulation 5 of the Regulations*

	Administrative fee	Legal Instrument
One-time, non-refundable licence application fee	€5,000	Regulation 9 of the Gaming Authorisations Regulations
One-time, non-refundable licence renewal fee	€5,000	Regulation 9 of the Gaming Authorisations Regulations
One-time, non-refundable licence application fee for a limited duration licence	€500	Regulation 6(4) of the Gaming Authorisations Regulations
Maintenance fee for a holder of a limited duration licence	€50 per day whilst the licence is in effect	Regulation 6(4) of the Gaming Authorisations Regulations
Request for the approval of a new gaming device	€100 per device	Regulation 19 of the Gaming Authorisations Regulations
One-time, non-refundable material supply certificate application fee	€1,000	Regulation 20 of the Gaming Authorisations Regulations
Maintenance fee for a holder of a material supply certificate, payable yearly in advance	€500	Regulation 20 of the Gaming Authorisations Regulations
One-time, non-refundable Junket Leader approval application fee	€50	Regulation 21 of the Gaming Authorisations Regulations
Recognition Notice fee, payable yearly in advance	€5,000	Regulation 22 of the Gaming Authorisations Regulations
One-time, non-refundable Key Function approval application fee	€50	Regulation 23 of the Gaming Authorisations Regulations
One-time, non-refundable Low Risk Games Permit application fee for non-profit games	€25	Regulation 29 of the Gaming Authorisations Regulations
One-time, non-refundable Low Risk Games Permit application fee for commercial communication games	€25 or 0.5% of the total monetary or retail value of the prize, whichever is higher	Regulation 29 of the Gaming Authorisations Regulations

Annex 9 - Gaming Licence Fees Regulations

One-time, non-refundable Low Risk Games Permit application fee for limited commercial communication games	€25	Regulation 29 of the Gaming Authorisations Regulations
One-time, non-refundable Cruise Casino Permit application for a cruise ship having a maximum capacity of one thousand five hundred (1,500) passengers	€500	Regulation 29 of the Gaming Authorisations Regulations
One-time, non-refundable Cruise Casino Permit application for a cruise ship having a maximum capacity of one thousand five hundred and one (1,501) passengers or more	€1,000	Regulation 30 of the Gaming Authorisations Regulations
One-time, non-refundable Amusement Machine registration fee	€50	Regulation 31 of the Gaming Authorisations Regulations
Request for the transfer of a qualifying interest in a licensee	€1,500	Regulation 32 of the Gaming Authorisations Regulations
Request for the addition of a new game type	€1,000	Regulation 32 of the Gaming Authorisations Regulations
Request for the addition of a new domain name	€100 per domain	Regulation 32 of the Gaming Authorisations Regulations
Request by an existing licensee operating gaming premises for the addition of an online delivery channel	€1000	Regulation 32 of the Gaming Authorisations Regulations
Request for the approval of a new controlled gaming premises	€250 per premises	Regulation 4 of the Gaming Premises Regulations
Request for the approval of a new gaming premises which is not a controlled gaming premises	€1,000	Regulation 4 of the Gaming Premises Regulations

DRAFT

Annex 10 - Social Causes Fund Regulations

.....
Prime Minister

.....
Parliamentary Secretary
for Financial Services,
Digital Economy and
Innovation

.....
Chairman
Malta Gaming Authority

GAMING ACT

(Cap.)

Social Causes Fund Regulations

IN EXERCISE of the powers conferred by article 16 of the Gaming Act, hereinafter referred to as "the Act", the Minister for Competitiveness and Digital, Maritime and Services Economy has made the following regulations:-

Citation and commencement.

1. The title of these rules is the Social Causes Fund Regulations, 2017.

Interpretation.

2. 2.(1) In these regulations, save as provided in sub-regulation (2) of this regulation, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations;

S.L.

(2) In these regulations, unless the context otherwise requires:

“Committee” means the Social Causes Fund Committee established in article 16 of the Act;

“Fund” means the Social Causes Fund established in article 16 of the Act;

Annex 10 - Social Causes Fund Regulations

“Gaming Fund” means the fund established in article 42 of the Act;

“Regulations” means these Social Causes Fund Regulations.

Funding.

3. The Fund shall be composed of the following:

- (a) one half of the gross amount paid by the Authority into the Gaming Fund:

Provided that in terms of sub-paragraph (b) of article 42 of the Act, the Authority shall credit to the Gaming Fund eight percent (8%) of tax received from operators of controlled gaming premises, or such other amount as the Minister, in consultation with the Minister responsible for Finance, shall determine;

- (b) any donations made to the Fund by any interested party:

Provided that any party making such a donation may request that his donation be appropriated in favour of a specific religious, philanthropic, cultural, sports, educational, social or civic project, or a specific category of projects, subject to the compliance of such project with all other requirements established by the Committee.

4. (1) The funds from time to time standing to the credit of the Fund shall be paid out by the Committee, without any further appropriation, to such persons, organisations, bodies or other entities pursuing objectives of a religious, philanthropic, cultural, sports, educational, social or civic nature or in support of other deserving causes, and in such amounts, in such manner and at such times, as may be determined by the Committee.

(2) The Committee shall ensure that the manner in which persons, organisations, bodies or other entities may apply for funding, and the criteria which are used to determine whether such persons, organisations, bodies or other entities may make such request and whether funding should be granted, are made readily available to the general public.

Annex 10 - Social Causes Fund Regulations

5. (1) The Committee shall cause to be kept proper accounts and other records of the receipts and expenditure of the Fund, and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Fund shall be audited by auditors appointed by the Committee from among persons who are qualified to be appointed as auditors of a company:

Provided that the Minister, or the Minister responsible for Finance, may require the books and accounts of the Authority to be audited or examined by the Auditor General who shall for the purpose have all the powers set out in the Auditor General and National Audit Office Act.

(3) The Committee shall, as soon as may be but not later than five months after the close of each financial year, transmit to the House of Representatives through the Minister, a copy of its annual accounts duly audited together with a brief report on the projects or other deserving causes funded during the previous year.

Annex 11 - Repealing Provisions

PART II

(Repealing of Specific Provisions)

1. The following provisions shall be repealed:
- (a) The following articles of the Racecourse Betting Ordinance: Cap. 78.
 - (i) Articles 6 to 13, both inclusive;
 - (ii) Paragraph (d) of article 14;
 - (iii) The second proviso to article 15; and
 - (iv) Article 16.

 - (b) The following articles of the Criminal Code: Cap. 9.
 - (i) Article 379;
 - (ii) The proviso to article 643.

 - (c) The following provisions within the Schedule to the Fees leviable by Government Departments Regulations: S.L. 35.01.

“Lotto

 - (a) For a permit to hold a tombola or lottery, inclusive of the duty leviable 0.17
Such fees shall be denoted by means of stamps to be affixed to the permit
 - (b) Fee in respect of an application filed later than the term specified in regulation 7 of the Public Tombolas Regulations - exclusive of the fees payable under paragraph (a) above 1.16”

 - (d) Article 10(6c) of the Broadcasting Act. Cap. 350.

 - (e) Article 2 of the Satellite Television Broadcasting Licence (Empowerment) Order. S.L. 350.13.

Annex 11 - Repealing Provisions

PART III

(Repealing of Laws)

1. The following laws shall be repealed:

	(a) The Racecourse Betting (Use of Totalisator) Rules.	S.L. 78.01.
Cap. 70.	(b) The Public Lotto Ordinance.	
	(c) The Permits application for Lotteries, Tombolas or Small Games Regulations.	S.L. 70.01.
	(d) The Public Tombolas Regulations.	S.L. 70.02
S.L. 70.03.	(e) The Public Lotto Regulations.	
	(f) The Director of Public Lotto (Powers and Functions) Act.	Cap. 122.
Cap. 292.	(g) The Government Lotteries Act.	
	(h) The Responsible Gaming Fund Regulations.	S.L. 438.08.
S.L. 37.03.	(i) The Importation of Mechanical of Gambling Contrivances Regulations.	
	(j) The Betting on the Result of Football Matches Order.	S.L. 9.02.
Cap. 438.	(k) The Lotteries and Other Games Act.	
	(l) The Gaming Act.	Cap. 400.

Annex 11 - Repealing Provisions

PART IV

(Amendments of Specific Provisions)

1. The Registration of Clubs Regulations shall be amended as follows: S.L. 10.21.
 - (a) In subarticle (b) of regulation 5, after the word “gambling” there shall be added the following words “and provided that he has verified that prior authorisation has been issued by the Malta Gaming Authority in terms of the Gaming Act”;
 - (b) Regulation 9 shall be amended as follows:
 - (i) in subarticle (d) thereof, after the word “premises” there shall be added the following words “provided that the Commissioner of Police has verified that prior authorisation has been issued by the Malta Gaming Authority in terms of the Gaming Act”.
 - (ii) in subarticle (e) thereof, after the word “gambling” there shall be added the following words “provided that the Commissioner of Police has verified that prior authorisation has been issued by the Malta Gaming Authority in terms of the Gaming Act”.

2. The Fourth Schedule to the Conduct Certificates Ordinance shall be amended as follows: Cap. 77.
 - (a) For the words “Lotteries and Gaming Authority”, there shall be substituted the words “Malta Gaming Authority”, and for the words “Lotteries and Other Games Act” there shall be substituted the words “Gaming Act”.

3. In paragraph (c) of subarticle (2) of regulation 4 of the Smoking in the Public Places Regulations, for the words “Lotteries and Gaming Authority”, there shall be substituted the words “Malta Gaming Authority”. S.L. 315.04.

4. In paragraph (c) of subarticle (4) of article 16M of the Broadcasting Act there shall be added the following provisos: Cap. 350.

“Provided that notwithstanding the above, gambling products which are strictly related to a sporting event may be advertised on such programme throughout the duration of such event, subject to such restrictions and

Annex 11 - Repealing Provisions

conditions as the Authority and, or the Malta Gaming Authority may impose thereon:

Provided further that notwithstanding the first proviso hereof, if the Authority deems that, in the interest of public health and, or for the protection of minors and, or vulnerable persons as defined in the Gaming Definitions Regulations, the advertising envisaged in the first proviso hereof shall not occur, it may restrict and, or prohibit such advertising as it deems fit in its sole discretion.”

5. The Requirements as to Standards and Practice applicable to the Conduct of Competitions and the Award of Prizes shall be amended as follows:

S.L. 350.22.

(a) Immediately after sub-paragraph (iv) of paragraph 1.2.2 of regulation 1 of the there shall be added the following new paragraph:

“1.2.3 Provided that in the exercise of this regulation, the Gaming Act and the regulatory instruments made thereunder applicable to it, shall be complied with”.

(b) Immediately after paragraph 3.3. of regulation 3 there shall be added the following new paragraph:

“3.4 Provided that in the exercise of this regulation, the Gaming Act and the regulatory instruments made thereunder applicable to it, shall be complied with”.

(c) Immediately after paragraph 4.1 of regulation 4 there shall be added the following new paragraph:

“4.2 Provided that in the exercise of this regulation, the Gaming Act and the regulatory instruments made thereunder applicable to it, shall be complied with”.

(d) Immediately after paragraph 5.3 of regulation 5 there shall be added the following new paragraph:

“5.4 Provided that in the exercise of this regulation, the Gaming Act and the regulatory instruments made thereunder applicable to it, shall be complied with”.

(e) Immediately after paragraph 6.2 of regulation 6 there shall be added the following new paragraph:

“6.3 Provided that in the exercise of this regulation, the Gaming Act and the regulatory instruments made thereunder applicable to it, shall be complied with”.

Annex 11 - Repealing Provisions

- (f) Immediately after sub-paragraph (iv) of paragraph 10.1 of regulation 10 there shall be added the following new paragraph:

“10.2 Provided that in the exercise of this regulation, the Gaming Act and the regulatory instruments made thereunder applicable to it, shall be complied with”.

- (g) Immediately after paragraph 11.1 of regulation 11 there shall be added the following new paragraph:

“11.2 Provided that in the exercise of this regulation, the Gaming Act and the regulatory instruments made thereunder applicable to it, shall be complied with”.

6. The Requirements as to Advertisements, Methods of Advertising and Directions Applicable to Gambling Advertisements shall be amended as follows:

S.L. 350.25.

- (a) In paragraph 2.2 of regulation 2, the words “since any such advertising is prohibited in terms of article 49 of the Gaming Act (Chapter 400 of the Laws of Malta)” shall be deleted.
- (b) In paragraph 4.1 of regulation 4, the first reference to the words “the Lotteries and Other Games Act” shall be deleted and the second reference to the words “Lotteries and other Games Act or any subsidiary legislation” shall be substituted by the words “Gaming Act or any other regulatory instruments issued thereunder”.
- (c) Immediately after sub-paragraph (xvii) of paragraph 5.4 of regulation 5 there shall be added the following new paragraph:

“5.5 Without prejudice to the generality of the foregoing, in the exercise of this provision, the Code of Commercial Communications, howsoever named, as issued by the Malta Gaming Authority shall be complied with.”.

7. In paragraph (g) of subarticle (2) of article 3 of the Services (Internal Market) Act, for the words “the Gaming Act and the Lotteries and other Games Act”, there shall be substituted the words “the Gaming Act”.

Cap. 500.