Directive 1 of 2022

National Lottery Ruling

In exercise of the power conferred by article 7(2) of the Gaming Act, 2018 (Cap. 583 of the Laws of Malta), the Malta Gaming Authority is hereby issuing the following ruling in order to clarify the effect of the Act and the binding instruments issued thereunder in relation to the Concession for the Rights of the National Lottery of Malta, and the National Lottery licence numbered MGA/B2C/003/2022, issued for a period of ten (10) years on 5 July 2022, and currently in force as at the date of coming into force of this ruling.

Part I – Preliminary

1. The short title of this binding instrument is the National Lottery Ruling 2022.

2. (1) This ruling shall come into force on 5 July 2022.

   (2) Unless repealed or otherwise amended beforehand, this ruling shall cease to have effect on 4 July 2032, or on the date on which the National Lottery concession ceases to have effect, whichever is earlier.

3. (1) In this ruling, save as provided in sub-article (2) of this article, all words and phrases shall have the same meaning as prescribed in the Act and the Gaming Definitions Regulations (S.L. 583.04).

   (2) In this ruling, unless the context otherwise requires:

   "concession" means a ten (10) year concession which entitles the concessionaire to, *inter alia,* operate, on an exclusive basis, the national lottery games, subject to the concessionaire successfully obtaining a National Lottery licence from the Malta Gaming Authority;

   "electronic gaming machine" means any video, electrical, and/or electronic device situated in an authorised gaming premises which satisfies all of the following criteria:

   (a) it is designed to offer a game of chance that is played on the relevant device itself;

   (b) the outcome of the game of chance is visible to the player on the same device; and

   (c) the random number generator determining such an outcome is physically installed inside the device itself and constitutes an integral part thereof.

   "excluded games" means:

   (a) online lotteries;

(b) non-profit games;

(c) commercial communications games; and

(d) limited commercial communications games.

"lottery game" means any game of chance, including those played from/on any player interface (irrespective of where it is situated), which is available for consumption in Malta, the outcome of which is centrally determined by a random number generator, and includes the National Lottery games and a pre-printed lottery ticket, but excludes:

(a) any game of chance played on an electronic gaming machine;

(b) any game of chance played on a gaming device, the outcome of which is determined by a random number generator installed inside the relevant gaming device and which outcome is visible to the player on the same gaming device;

(c) sports betting; and

(d) the excluded games.

"online lottery" means a game of chance which is available for consumption in Malta, the outcome of which is centrally determined by a random number generator, and which satisfies all of the following conditions:

(a) it is available exclusively online and/or other remote means;

(b) is not available or distributed from any physical premises in Malta; and

(c) the random number generator determining the outcome thereof is not a lottery game drawn exclusively by the National Lottery licensee, nor is it linked, based on the outcome or result of, or otherwise connected or determined by reference to one or more lottery games drawn exclusively by the National Lottery licensee.

"operate" means the right to organize, operate, place on the market, sell, distribute, advertise, promote, and undertake commercial communications, in respect of the relevant game of chance;

"other game" means any other game included in the National Lottery licence, that is not a lottery game;

"physical premises" means any premises of a permanent or temporary nature located in Malta;

"player interface" means any type of user or player interface, programme, system, device, ticket or object whether of electronic, electrical, mechanical,

virtual, video or tangible nature, which enables a user or a player to directly or indirectly place a wager, play, acquire, purchase or participate in a game of chance in Malta;

"pre-printed lottery ticket" means a type of lottery game played through the purchase of a physical ticket the outcome of which is determined prior to or simultaneously with the purchase of such ticket and the same outcome is available to the player on the ticket itself;

"ruling" means this National Lottery Ruling 2022; and

"sports betting" means any game of chance the outcome of which is determined by the result of any future contest, competition, event, or sports conducted by a natural person for which physical strength, ability, and/or skill is required (excluding a physical lottery draw), and the term "sports bet/s" shall be construed accordingly.

Part II – Continuation and Interpretation

4. (1) The Authority shall immediately inform the Minister about the existence of a ground for cancellation or suspension of the National Lottery licence and keep him continuously informed of all measures being adopted in that regard.

(2) The Authority shall immediately inform the Minister about its decision to suspend or cancel the National Lottery licence and shall take all reasonable measures which are necessary or expedient to guarantee the uninterrupted operation of the National Lottery.

5. (1) No person may sell games forming part of the National Lottery licence unless such person is in possession of a valid authorisation issued by the Authority.

(2) Application for such authorisation shall be made to the Authority in such form and manner, and shall contain or be accompanied with such information, documents and particulars, including evidence of the authority or appointment of the applicant given or made by the National Lottery licensee to sell games forming part of the National Lottery licence, as the Authority may require or as may be prescribed by any applicable binding instrument.

(3) The Authority shall not issue any such authorisation unless it is satisfied that the applicant is a fit and proper person to sell games forming part of the National Lottery licence and that they satisfy any other requirement and have any other qualifications as may be prescribed by any applicable binding instrument.

(4) In granting any such authorisation, the Authority may subject the authorisation holder to such conditions as the Authority may deem appropriate, and after the grant of such authorisation, the Authority may, from time to time, vary or revoke any condition so imposed or impose new conditions.

(5) Without prejudice to the provisions of sub-article (6), any such authorisation shall cease to have effect upon the revocation or termination of the authority or appointment of the authorisation holder given or made by the National Lottery licensee to sell games forming part of the National Lottery licence or in the event that a National Lottery licence ceases to have effect for any reason whatsoever and the holder of any new National Lottery licence does not authorise or appoint the authorisation holder to sell games forming part of the National Lottery licence.

(6) Any authorisation referred to in sub-article (1) shall be considered null and void if the holder of such authorisation assigns or transfers the authorisation to any other person.

(7) Any person who sells games forming part of the National Lottery licence, or sells games based on the outcome of the National Lottery Games, other than the National Lottery licensee or any person holding an authorisation in terms of this article, shall be guilty of an offence under the Act.

6. The provisions of the Act and the binding instruments issued thereunder shall be wholly applicable to the National Lottery licensee, saving for the exemptions stipulated in the concession and this ruling.

Provided that the provisions of this ruling shall be without prejudice to any requirements that are applicable, or which may become applicable, to the National Lottery licensee in terms of anti-money laundering legislation.

Part III – Exclusivity

7. The National Lottery licensee shall be entitled to operate, on an exclusive basis, all lottery games available for consumption in Malta.

Provided that the National Lottery licensee shall not enjoy an exclusive right to operate online lotteries.

Provided further that the National Lottery licensee shall not enjoy an exclusive right to operate any other game online.

Part IV – Gaming Premises Regulations

8. In this Part, the term 'Regulations' shall be read and construed as a reference to the Gaming Premises Regulations (S.L. 583.07).

9. The provisions of Parts III and IV of the Regulations shall not be applicable to the National Lottery licensee until 9 July 2027 in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence solely in relation to the offering of lottery games, and single sports bets which do not exceed the amount of fifty euro (€50).

10. Part V of the Regulations shall not be applicable to the National Lottery licensee in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence.

Provided that regulations 11, 14 (1) (c), 14 (2)(a) to 14 (2)(n) cumulatively, 14 (2)(q), 16 (1)(a) to 16 (1)(c) cumulatively, 16 (1)(d) for the purposes of the two (2) provisos only, 16 (1) (e) to 16 (1)(f) cumulatively and 16 (2)(a) to 16 (2)(f) cumulatively shall be applicable to the National Lottery licensee in terms of the operation of electronic gaming machines only.

Part V – Gaming Licence Fees Regulations

11. In this Part, the term 'Regulations' shall be read and construed as a reference to the Gaming Licence Fees Regulations (S.L. 583.03).

12. The administrative fees applicable to gaming premises in accordance with the Fourth Schedule of the Regulations shall not be applicable to the National Lottery licensee in terms of the physical premises it and its authorised resellers operate from, and any such fees shall be governed by the terms of the National Lottery licence.

Part VI – Gaming Tax Regulations

13. In this Part, the term 'Regulations' shall be read and construed as a reference to the Gaming Tax Regulations (S.L. 583.10).

14. The provisions of Part II of the Regulations shall not be applicable to the National Lottery licensee solely in relation to gaming revenue generated from qualifying activity on electronic gaming machines within the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence.

Provided that the National Lottery licensee shall, for each tax period, pay to the Authority gaming tax on the aggregate gaming revenue generated from qualifying activity on electronic gaming machines at the rate prescribed in regulation 3(2) of the Regulations.

Part VII – Gaming Premises Directive

15. In this Part, the term 'Directive' shall be read and construed as a reference to the Gaming Premises Directive (Directive 2 of 2019).

16. The provisions of Part III of the Directive shall not be applicable to the National Lottery licensee in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence, save for the following provisions:

(i) Article 9 of the Directive shall be applicable to the National Lottery licensee in terms of the operation of electronic gaming machines only;

(ii) Article 11 of the Directive shall be applicable to the National Lottery licensee in terms of single sports bets exceeding the amount of fifty (€50) and in terms of the operation of electronic gaming machines only; and

(iii) Article 12 of the Directive shall be applicable to the National Lottery licensee from 1 January 2024 wherever sports betting and electronic gaming machines are operated.

17. The requirements envisaged in Part IV of the Directive shall not be applicable to the National Lottery licensee in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence, save for the requirements relating to controlled gaming premises where electronic gaming machines are offered.

18. Part V of the Directive shall not be applicable to the National Lottery licensee in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence, to the exclusion of controlled gaming premises where electronic gaming machines are offered.

Part VIII – Gaming Authorisations and Compliance Directive

19. In this Part, the term 'Directive' shall be read and construed as a reference to the Gaming Authorisations and Compliance Directive (Directive 3 of 2018).

20. The provisions of Part VII of the Directive shall not be applicable to the National Lottery licensee until 9 July 2027 in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence solely in relation to the offering of lottery games, and single sports bets which do not exceed the amount of fifty euro (€50).

21. Part X and Part XIII of the Directive shall not be applicable to the National Lottery licensee.

Part IX – Player Protection Directive

22. In this Part, the term 'Directive' shall be read and construed as a reference to the Player Protection Directive (Directive 2 of 2018).

23. The requirements envisaged in articles 11, 12, and 13 of Part IV of the Directive shall not be applicable to the National Lottery licensee until 9 July 2027 in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence solely in relation to the offering of lottery games, and single sports bets which do not exceed the amount of fifty euro (€50).

24. The provisions of Part VII of the Directive shall not be applicable to the National Lottery licensee in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence in relation to the offering of lottery games, and sports betting.

Provided that this Part shall be applicable to the National Lottery licensee in terms of the operation of electronic gaming machines, with the exception of article 21 (2)(b) which shall not be applicable.

25. The provisions of Part IX of the Directive shall not be applicable to the National Lottery licensee until 9 July 2027 in the physical premises it and its authorised resellers operate from in terms of the National Lottery concession and licence solely in relation to the offering of lottery games, and single sports bets which do not exceed the amount of fifty euro (€50).