

SUBSIDIARY LEGISLATION 583.04
GAMING DEFINITIONS REGULATIONS

20th July, 2018

LEGAL NOTICE 242 of 2018.

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

2. In regulations made under the Gaming Act, unless otherwise expressly stated therein: Interpretation across all regulations. Cap. 583.

"the Act" means the Gaming Act; Cap. 583.

"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; S.L. 378.18.

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

"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 the Act, and shall include the conditions attached to an authorisation;

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

"Chairperson" means the Chairperson of the Authority and includes the deputy chairperson or another person appointed to act as chairperson 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;

"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:

- (a) is in the public domain;
- (b) is or becomes generally available to the public other than as a result of its disclosure by the recipient in breach of confidentiality;
- (c) was available to the recipient on a non-confidential basis prior to disclosure by the disclosing party; or
- (d) 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;

(e) was lawfully in the possession of the recipient before the information was disclosed to it by the disclosing party;

(f) the parties agree in writing is not confidential or may be disclosed; or

(g) 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 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 one hundred and fifty (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 and, 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 the Act;

"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 order to allow a player to place a wager, and, or to obtain the outcome of a game in a gaming premises;

"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;

"gaming table" means a gaming device which is:

(a) designed or adapted in such a way that requires it to be controlled or operated by an individual employed or otherwise engaged for that purpose by the gaming premises operator; and, or

(b) designed or adapted for use in connection with a game the arrangements for which are controlled or operated by an individual;

"junket" means an arrangement the purpose of which is to induce any person resident outside Malta, selected or approved for participation therein, to come to a gaming premises in possession of a concession issued by Government for the purpose of playing licensable games 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 event" means a Type 3 gaming service event, with specific start and end dates, organised within a gaming premises in possession of a concession issued by Government as a competition between players, which, in view of its nature, profile and prestige is able to induce high quality players to such gaming premises to compete in said event, and which has been specifically approved as such by the Authority;

"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;

"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;
- S.L 583.05. "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;
- S.L 583.05. "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;
- S.L 583.05. "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 and, or key technical set-up 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 ability -
- (a) 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";

"means of distance communication" includes any means which may be used for the communication, transmission, conveyance and, or receipt of information, and, or or for the conclusion of a contract between two or more persons, without the simultaneous physical presence of those persons, including but not limited to:

- (a) the internet;
- (b) telephone;
- (c) radio;
- (d) television;
- (e) any other means of communication, transmission, conveyance and, or receipt of information by wire, radio, optical means, electromagnetic means or by any other electronic means or technology; or
- (f) any other means which the Authority may by binding instrument determine;

"Minister" means the Minister responsible for the gaming sector;

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

"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;

"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;

S.L 583.08.

"Player Support Unit" means the unit set up under article 18 of the Act and regulation 15 of the Gaming 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;

"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 made 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 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 pathological or otherwise problem gamblers, persons who are currently seeking treatment for problem gambling and persons under the influence of alcohol or drugs.
