

Directive 1 of 2019

National Lottery (Continuation of Concession and Licence Terms) Ruling

In exercise of the powers 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 other regulatory instruments in relation to the Concession for the Rights of the National Lottery of Malta, and the National Lottery licence numbered LGA/NL/02, issued for a period of ten (10) years on the twenty-seventh day of June of the year two thousand and twelve (27/06/2012) and currently in force as at the date of coming into force of this ruling.

Part I – Short Title and Definitions

1. The short title of this binding instrument is the National Lottery (Continuation of Concession and Licence Terms) Ruling 2019.
2. (1) This ruling shall come into force on the 1 January 2019.

(2) Unless repealed or otherwise amended beforehand, this ruling shall cease to have effect on the 4 July 2022, or on the date on which the National Lottery concession ceases to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 Gaming Definitions Regulations.

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

“qualifying shareholding” means a direct shareholding in a company which represents five per centum (5%) or more of the share capital issued by such company or of the voting rights attaching to such share capital or which makes it possible to exercise a significant influence over the management of the company, and “qualifying shareholder” shall be construed accordingly;

“ruling” means this National Lottery (Continuation of Concession and Licence Terms) Ruling 2019.

Part II – Continuation and Interpretation

4. Unless expressly provided otherwise in the Concession and, or the Licence, the Concession and Licence shall continue to be read, construed and interpreted in accordance with the Laws of Malta applicable as at the time of execution of the Concession and Licence, and any amendment to, and, or repeal of, any such laws shall not affect the rights and obligations established in the Concession and Licence and in the Laws of Malta applicable as at the time of signature and execution of the Concession and the Licence.

5. (1) A National Lottery licence may not be assigned or transferred by the National Lottery licensee to any other person.

(2) The National Lottery licensee may not surrender the National Lottery licence during the licence term.

(3) The transfer or assignment of the National Lottery licence by the licensee to any other person shall be considered null and void.
6. (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 also immediately inform the Minister about its decision to suspend or cancel the licence and shall take all reasonable measures which are necessary or expedient to guarantee the uninterrupted operation of the National Lottery.
7. (1) No person may sell games forming part of the National Lottery licence unless such person is in possession of a valid permit issued by the Authority.

(2) Application for such permit shall be made to the Authority by the proposed seller 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 regulations.

(3) The Authority shall not issue any such permit 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 he satisfies any other requirement and has any other qualifications as may be prescribed by regulatory instrument.

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

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in any such permit, the Authority shall, unless such variation or imposition of a new condition has been requested by the permit holder himself, by notice in writing, inform the permit holder and the National Lottery licensee of its intention to vary the said condition or to impose the said new condition, calling upon the said permit holder and licensee to show cause, within such period being not less than seven (7) days after the issue of the notice as may be specified in the same notice, why such condition should not be varied or such new condition should not be imposed, and the Authority shall consider any response made by the

permit holder and the licensee within the period specified in the notice, before varying the condition or before imposing the new condition.

(5) Without prejudice to the provisions of sub-article (6), any such permit shall cease to have effect upon the revocation or termination of the authority or appointment of the permit 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 issued in terms of this Part does not authorise or appoint the permit holder to sell games forming part of the National Lottery licence.

(6) The Authority may order the cancellation or the suspension of such permit -

- (a) if the permit holder contravenes any provision of the Act or any other regulatory instrument, or is in breach of any condition in the permit;
- (b) if the Authority is reasonably satisfied that the permit holder is not or has ceased to be a fit and proper person to sell games forming part of the National Lottery licence; and, or
- (c) in any other circumstance prescribed by regulatory instrument.

(7) (a) Where a ground for cancellation or suspension of the permit arises under sub-article (6), the Authority, by notice in writing, shall request the permit holder and the National Lottery licensee, and may request any other person who in its opinion has an interest in the permit, to show cause, within such period as may be established in the same notice being not less than twenty-one (21) days after the issue of the notice, why the permit should not be cancelled or suspended on such ground as stated in the notice.

(b) The Authority shall consider any response made by the permit holder, the National Lottery licensee or any other person as aforesaid within the period specified in the notice, and -

- (i) where the matter is resolved to its satisfaction, it shall take no further action and shall inform the permit holder in writing accordingly;
- (ii) where, although the matter is not resolved to its satisfaction, it considers that no further action is warranted, it shall caution the permit holder in writing; or
- (iii) where the matter is not resolved to its satisfaction, and it considers that further action is warranted, it may -
 - a. by notice in writing, give such direction to the permit holder as it considers appropriate; or
 - b. suspend for such period as it thinks fit; or
 - c. cancel, the permit.

(c) Where a direction given by the Authority under paragraph (b)(iii)a is not complied with within the time limit specified in the notice, the Authority shall cancel the permit.

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

(9) Any person who sells games forming part of the National Lottery licence other than the National Lottery Licensee, or sells games based on the outcome of the National Lottery Games, in contravention of sub-articles (1) and (2) shall be guilty of an offence under the Act.

(10) For the sake of clarity, premises in which the only games offered are those forming part of the National Lottery licence shall be required to adhere to the requirements in this ruling, the requirements in the National Lottery concession and licence, and any other regulatory instruments rendered applicable thereto, but shall not be read and construed as gaming premises or controlled gaming premises for the purposes of the Gaming Premises Regulations (S.L. 583.07) if they are in possession of the necessary permit issued by the Authority.

Part III – Gaming Authorisations Regulations

8. (1) In this Part, the term “Regulations” shall be read and construed as a reference to the Gaming Authorisations Regulations (S.L. 583.05).

(2) The provisions of Part VII of the Regulations shall not apply to the National Lottery licensee.

Part IV – Gaming Premises Regulations

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

10. Premises in which the only games offered are those forming part of the National Lottery licence shall be required to adhere to the requirements in this ruling, the requirements in the National Lottery concession and licence, and any other applicable regulatory instruments, but shall be exempted from the requirements of the Regulations, in terms of regulation 4 of the Regulations, if in possession of the necessary permit issued by the Authority.

Part V – Gaming Player Protection Regulations

11. In this Part, the term “Regulations” shall be read and construed as a reference to the Gaming Player Protection Regulations (S.L. 583.08).

12. The Regulations shall be applicable to the National Lottery licensee in their entirety:

Provided that where there is a conflict between the provisions of the Regulations and the clauses in the National Lottery licence, the latter shall prevail.

Part VI – Gaming Compliance and Enforcement Regulations

13. In this Part, the term “Regulations” shall be read and construed as a reference to the Gaming Compliance and Enforcement Regulations (S.L. 583.06).

14. The Regulations shall be applicable to the National Lottery licensee:

Provided that as regards the processes of suspension and, or cancellation, and the process of taking an enforcement measure in relation to the National Lottery Licensee, the provisions envisaged in the Licence shall apply.

Part VII – Gaming Commercial Communications Regulations

15. In this Part, the term “Regulations” shall be read and construed as a reference to the Gaming Commercial Communications Regulations (S.L. 583.09).

16. (1) Without prejudice to sub-article (2), the Regulations shall be wholly applicable to the National Lottery licensee, and to commercial communications relating to the National Lottery licence.

(2) The prohibition envisaged in regulation 14(1) of the Regulations shall not apply to the National Lottery games.

Part VIII – Gaming Authorisations and Compliance Directive

17. 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).

18. The requirements envisaged in Part II of the Directive shall be superseded by the requirements in Part II of this ruling and in the National Lottery licence in case of conflict.

19. The requirements envisaged in the National Lottery licence in relation to approval of new games offered by the National Lottery licensee, and material gaming supplies used thereby, shall prevail over the provisions in Parts IV and V respectively of the Directive.

20. The provisions of Part VI of the Directive shall not apply to the gaming service provided by the National Lottery licensee in the gaming premises it and its authorised resellers operate in terms of the National Lottery concession and licence.

21. Part IX of the Directive shall be inapplicable in relation to the National Lottery licence.

22. Part XIII of the Directive shall not apply to the National Lottery licensee.

Part IX – Player Protection Directive

- 23.** In this Part, the term “Directive” shall be read and construed as a reference to the Player Protection Directive (Directive 2 of 2018).
- 24.** The following provisions of the Directive shall not apply to the gaming service provided by the National Lottery licensee in the gaming premises it and its authorised resellers operate in terms of the National Lottery concession and licence:
- (a) Articles 11, 12 and 13;
 - (b) Part V; and
 - (c) Part VII.