



REMOTE GAMING REGULATIONS

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SUBSIDIARY LEGISLATION 438.04
REMOTE GAMING REGULATIONS

20th April, 2004;
 20th July, 2004;
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LEGAL NOTICE 176 of 2004, as amended by Legal Notices 110 of 2006, 270 and 426 of 2007, and 90 of 2011.

Part I

Preliminary

1. The title of these regulations is the Remote Gaming Regulations. Title.

Part II

Definitions

2. In these regulations, unless the context otherwise requires:

"the Act" means the Lotteries and Other Games Act;

"appropriate resources" means financial resources which are, in the Authority's sole discretion, adequate to ensure the financial viability of operations of a remote gaming office, and which are available from a source that is not tainted with illegality;

"appropriate services" means the services of persons who have appropriate experience to ensure the proper and successful conduct of a remote gaming operation and, or a remote betting office;

"approved control system" means a control system approved by the Authority, and shall include an approved control system changed or modified with the approval of the Authority;

"authorised game" means remote gaming that a licensee is permitted to conduct under these regulations;

"the Authority" means the Lotteries and Gaming Authority;

"betting market" means a betting event with a well defined termination point and decidable outcome;

"control system" means a system of internal controls, and administrative and accounting procedures for the conduct of a remote gaming office which is set up and maintained in Malta;

"electronic means" means all electronic data transfer, whether by telephony, facsimile, computer or any other means of distance communications as approved by the Authority;

"game" has the same meaning assigned to it by the Act;

"gaming" means an agreement, scheme, or arrangement between two or more parties to play together at a game of chance in which a prize or reward consisting of money or some other item of value, worth, advantage, or opportunity is offered or can be won and

Interpretation.
 Amended by:
 L.N. 90 of 2011.
 Cap. 438.

become the property of the winner under defined conditions established for the purpose of the game;

"gaming records" means all records directly or indirectly related to remote gaming and to bets provided by a licensee and to player account information, wagers placed and to the outcomes of games played;

"gaming system" means a computer system or systems of computers by means of which remote gaming is conducted, and shall include all its associated components, its operating systems and applications software;

"inspector" has the same meaning assigned to it by article 17 of the Act;

"key official" means a person nominated by the licensee who is a director of the licensee and resident in Malta;

"licensee" means a person to whom the Authority has issued a remote gaming licence;

"means of distance communications" has the same meaning assigned to it by the Act but shall not include press advertising with an order form or catalogue and phone-ins during radio and television programmes:

"the Minister" means the Minister responsible for finance;

"player" means any person who is over eighteen years of age and who takes part in remote gaming;

"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;

"pool betting" means betting made on terms where all or part of the winnings shall be determined by reference to the aggregate of stakes paid or agreed to be paid by the person betting, and which shall be divided among the winners;

"remote betting" means the negotiation or receiving of any bet by a means of distance communications;

"remote gaming" means any form of gaming by means of distance communications;

"remote gaming equipment" means a machine or other device whether electronic, electrical or mechanical, computer software, or any other mechanism, device or item, used or suitable for use, in the operation of an authorised game and which is situated in Malta;

"remote gaming licence" means the licence granted to a licensee by the Authority to conduct remote gaming;

"remote gaming related activities" means any activity or business that the Authority considers reasonably related to the operation of remote gaming, or any business that offers goods or services to persons who participate in licensed remote gaming;

"qualifying shareholding" has the same meaning assigned to it by the Act;

"stake" has the same meaning assigned to it by the Act.

Part III

Licensing

3. No person shall operate or promote or sell or abet remote gaming in or from Malta unless such person is in possession of a valid licence of the relevant class, as set down in the First Schedule, issued by the Authority or is in possession of an equivalent authorisation by the government or competent authority of an EEA Member State, or any other jurisdiction approved by the Authority. Any person who acts in breach of the provisions of this regulation shall be guilty of an offence against the Act:

Operations.
Amended by:
L.N. 90 of 2011.

Provided that the Authority may impose such proportionate requirements and conditions, in conformity with European Union law, as it may deem necessary in fulfillment of its functions under the Act, or as the Minister may direct the Authority by virtue of article 12 of the Act, in respect of games authorised under any law enacted by a Member State of the European Union or a Member State of the European Economic Area or any other jurisdiction or territory approved by the Authority:

Provided further that such requirements and conditions shall be compatible with international obligations.

4. To qualify for a licence, an applicant must be a body corporate established in Malta in terms of the Companies Act.

Qualifications.
Substituted by:
L.N. 270 of 2007.
Cap. 386.

5. (1) Any person who wants to obtain a licence referred to in regulation 3 shall apply in writing to the Authority.

Applications.

(2) Applications for a licence must be made on forms provided by the Authority and shall include information concerning the following:

- (i) personal background information;
- (ii) financial information;
- (iii) participation in legal activities, including but not limited to, any interest or equity in any other commercial activity;
- (iv) criminal record information;
- (v) information concerning all pecuniary, equity and other interests in the applicant; and
- (vi) any other information required by the Authority, for every director, key official and chief executive officer of the applicant and for every shareholder with five *per centum* or more ownership of, or controlling interest in the applicant:

Provided that the Authority may, at its sole discretion, require that all beneficial owners of shares in the applicant provide the information herein mentioned.

(3) An applicant may claim privilege afforded to him by any other law in refusing to answer questions made, or supplying information requested by the Authority in conjunction with its application. However, a claim of privilege with respect to same may constitute sufficient grounds for denial of a licence.

Fees.
*Substituted by:
L.N. 90 of 2011.*

6. (1) The Authority shall not process any application under these regulations or issue any licence being applied for, unless the relevant non-refundable application fee is paid to the Authority as set down in the Second Schedule.

(2) Without prejudice to any other provision of these regulations, the licensee shall pay to the Authority the relevant licence fees, renewal fees, approval fees and any other administrative fees as laid down in the Second Schedule.

(3) The Authority may, when objectively reasonable, require applicants or licensees to pay the actual costs and any other expenses incurred in conducting analyses, inspections and investigations into their backgrounds, suitability and qualifications to obtain and maintain a licence.

Period of licence.

7. (1) A licence granted by the Authority shall be for a five-year period.

(2) On the expiration of such term a licence may be renewed by the Authority for further five-year periods at a time:

Provided that any such 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 licence, of the Act and of these regulations, and with any directive issued by the Authority in terms of the Act or of these regulations and which are applicable to such licence.

(3) Renewal applications shall be made in the form specified by the Authority and shall be received by the Authority at least sixty days before the expiration of the current licence.

Granting of licence.

8. (1) The Authority shall not issue or renew a licence applied for under these regulations unless it is reasonably satisfied that all persons involved in the applicant company are fit and proper persons.

(2) In determining whether the applicant is a fit and proper person, the Authority shall have regard to the following matters:

- (a) the character of the persons vested with executive powers in the applicant, and the business reputation of such persons;
- (b) the current financial position, financial background and business reputation of the applicant's promoters, shareholders and directors;
- (c) whether the applicant has the appropriate business ability to conduct remote gaming successfully;
- (d) whether the applicant has, or is able to obtain, appropriate resources and is able to maintain minimum

required reserves as may be established by the Authority in order to ensure that players shall have winnings paid and deposits returned;

- (e) the commitment of the applicant to maintain a physical presence in Malta;
- (f) whether the applicant is, in the Authority's opinion, untainted with illegality;
- (g) whether the applicant has followed policies and will take affirmative steps to prevent money laundering and other suspicious transactions; and
- (h) whether the applicant has the capacity and the internal control structures to enable it to comply with the policies and directives which the Authority deems appropriate.

9. (1) In granting a licence the Authority may subject it to such conditions as it may deem appropriate, and after the grant of such licence the Authority may from time to time vary or revoke any condition so imposed, or impose new conditions:

Conditions of licence.

Provided that whenever the Authority deems it appropriate to vary any condition or impose any new condition in the licence, the Authority shall, unless such variation or imposition of a new condition has been requested by the licensee himself, by notice in writing inform the licensee of its intention to vary the said condition or to impose the said new condition, calling upon the said licensee 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 condition should not be varied or such new condition should not be imposed, and the Authority shall consider any representations made by the licensee within the period specified in the notice, before varying the condition or before imposing the new condition.

(2) A licence granted by the Authority may impose conditions relating to, *inter alia*:

- (a) the proper operation of interactive games;
- (b) the protection of players;
- (c) the prevention of money laundering;
- (d) exigencies of public interest.

10. (1) The granting of a licence is a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder.

Revocable privilege.

(2) The burden of proving the licensee's qualifications to hold a licence shall rest at all times on the licensee.

11. (1) A licence granted by the Authority may not be assigned or transferred in any way whatsoever to any other person without the prior written consent of the Authority, and any such assignment or transfer to any other person without the Authority's consent shall be considered null and void and constitute sufficient

Assignment and transfer prohibited.
Amended by:
L.N. 90 of 2011.

grounds for the Authority to cancel that licence.

(2) Without prejudice to the regulations of this part of the regulations, it shall be the duty of the licensee to notify the Authority forthwith of:

- (a) any change in the Board of Directors or management of the licensee, or any material changes in the information and documentation provided in terms of regulation 5(1) and (2), or any other information or documentation provided by the licensee in terms of any other provision of the Act, or in terms of conditions attached to the licence;
- (b) any resolution or intended resolution, or any application or intended application to the Court, or any other action for the dissolution and winding up of the licensee, as soon as they become aware of such changes, resolutions or intended resolutions, applications or intended applications or actions.

(3) Notwithstanding anything contained in any other law, the approval in writing of the Authority shall be required before any person may lawfully:

- (a) transfer a qualifying shareholding in the licensee;
- (b) increase an existing holding which is not a qualifying shareholding so as to cause it to become a qualifying shareholding in such licensee;
- (c) increase an existing qualifying shareholding in such licensee so as to cause it to equal or exceed five *per centum* of the share capital issued by the licensee or of the voting rights attaching to such share capital, or to cause the licensee to become that person's subsidiary;
- (d) reduce an existing qualifying shareholding in such licensee so as to cause it to fall below five *per centum* of the share capital issued by the licensee or of the voting rights attaching to such share capital;
- (e) reduce an existing qualifying shareholding in such licensee so as to cause it to cease to be a qualifying shareholding.

(4) It shall also be the duty of the licensee to obtain the prior approval in writing of the Authority before taking any of the following actions:

- (a) the sale or other disposition by the licensee of its business;
- (b) the merger of the licensee with another company;
- (c) the reconstruction, division of a company;
- (d) the reduction of the nominal or issued share capital of the licensee or the increase or reduction of its voting share capital or any material change in voting rights in such licensee;
- (e) entering into any contractual arrangements with any

supplier or entity providing services, if such supplier or entity will receive a percentage of the profits of the remote gaming operation or commission, pursuant to such an agreement;

- (f) the surrender of the licence by the licensee during the licence term.

(5) Where the licensee or another person takes any of the actions set out in sub-regulation (3)(a) to (e) and in sub-regulation (4)(a) to (f), without the prior approval in writing of the Authority, or is in breach of any terms and conditions specified by the Authority in any such approval, the Authority may, without prejudice to its powers under regulations 14 and 15 -

- (a) issue a directive declaring such action or transfer to be void and of no effect, which directive shall be effective against all persons involved in such action or transfer notwithstanding the provisions of any other law and, or
- (b) issue a directive to such licensee or, as the case may be, to such person to do or refrain from doing any act which the Authority may deem appropriate in the circumstances,

and such licensee or, as the case may be, such person shall comply with any such directive issued to it by the Authority in terms of paragraph (b), failing which he shall be guilty of an offence against the Act.

12. (1) Where any person or licensee has sought the approval of the Authority under regulation 11(3) and (4), the Authority shall within a reasonable time, which however shall not exceed ninety days, running from the day on which its approval has been sought, inform in writing the person or licensee seeking approval, of its decision:

Notice by the Authority.

Provided that where the Authority has objected to the action for which approval is being sought it shall in the same notice state the reasons for such objection:

Provided further that the Authority shall also in the same notice inform the said person or licensee that he may 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 decision should not be taken, and the Authority shall consider any representations made by such person or licensee, before taking a decision which shall be final.

(2) The Authority may, before reaching a final decision, request the person or licensee seeking its approval, to provide the Authority with any information or documents it may reasonably require in order to make a decision.

(3) Where the Authority has given its approval:

- (a) the act or event for which the Authority's approval has been sought must take place within twelve months, which shall commence to run from the day on which

- the person or licensee seeking approval has been served with a written notice of same;
- (b) the Authority may impose any terms and conditions that it shall deem necessary or expedient.
- (4) (a) Where the licensee has sought the approval of the Authority to surrender his licence, the Authority shall not approve same unless it is shown to its satisfaction that the licensee is not in breach of any provisions of the Act, these regulations, any directive issued by the Authority or the conditions of the licence, at the time when such request for approval has been made.
- (b) The Authority shall also require evidence that players' monies have been duly refunded or alternative arrangements in respect of such monies have been made to the satisfaction of the Authority.

Suspension and
cancellation of
licence.
*Amended by:
L.N. 90 of 2011.*

13. (1) The Authority may order the suspension or cancellation of a licence if:

- (a) any person who has an interest in the licensee, or any key official in relation to the licence is convicted in any country or territory of an offence which is punishable in that country or territory by imprisonment;
- (b) the licensee has failed without reasonable cause being shown to comply with any material term or condition of the remote gaming licence;
- (c) the licensee has failed to discharge financial commitments for the licence holder's operations or the Authority has reason to believe that such failure is imminent;
- (d) the licence holder is insolvent or is being wound up;
- (e) the licence holder applies for an order, or is compelled by any means or for any reason, to discontinue or to wind up its operations;
- (f) the remote gaming licence was obtained by a materially false or misleading representation or in some other improper way;
- (g) the licence holder is in breach of the laws or regulations at any time in force for the prevention of money laundering;
- (h) the licence holder has failed to meet commitments to players;
- (i) the licence holder has failed to pay in a timely manner all gaming or betting taxes due to the Authority;
- (j) the Authority, in its sole discretion, has determined that there is material and sufficient reason for suspending or revoking the licence;
- (k) the Authority reasonably deems it necessary in the national interest to cancel or suspend a licence; and

- (l) the Authority is reasonably satisfied that the licensee presents a danger to the reputation of gaming in Malta.
- (2) (a) The suspension, revocation or expiration of the licence shall not affect any liability of the licence holder for anything done or omitted to be done before the date of suspension, revocation or expiration.
- (b) The liability of the licence holder to pay any fee shall continue during any period when the licence is suspended.

14. (1) Where a ground for cancellation or suspension of a licence arises under regulation 13, the Authority shall, by notice in writing, request the licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period being not less than twenty-one days after the issue of the notice as specified in the same notice, why the licence should not be cancelled or suspended on such ground as is stated in the notice:

Notice of suspension, cancellation.

Provided that the Authority may, in the same notice, require the person on whom the notice is served in terms of this regulation, to tender any information or documents which the Authority may deem necessary in the circumstances.

(2) The Authority shall have regard to any representations made under sub-regulation (1) in such a manner that:

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

(3) Where a direction given by the Authority under sub-regulation (2)(c)(i) is not complied with within the time specified in the notice, the Authority shall cancel the licence.

Part IV

Key official

15. (1) A licensee shall appoint at least one key official and such appointment has to be approved by the Authority and shall be a condition of the licence.

Appointment of key official.

- (2) A key official shall:
 - (a) personally supervise the operations of the licensee of which he is a key official;

- (b) ensure that the licence holder shall comply with all applicable laws and regulations, the conditions of the licence and any directives issued by the Authority to the licensee.

Application for key official.

16. An application for the appointment of a key official shall be made to the Authority in writing, on an approved form.

Key official to be fit and proper.

17. The Authority shall not issue a licence to an applicant for a key official licence unless it is satisfied that such person is fit and proper to fulfill his obligations and discharge his duties.

Cancellation of key official licence.

18. (1) The Authority shall cancel the licence of a key official if such an official:

- (a) ceases to be resident in Malta;
- (b) ceases to be a director of the licensee;
- (c) ceases to be, in the Authority's sole discretion, a fit and proper person.

(2) The Authority may cancel the licence of a key official if such an official is convicted in any country or territory of an offence punishable with imprisonment.

Duration of key official licence.

19. A key official licence shall remain valid until it is cancelled by the Authority under any of the grounds mentioned in regulation 18 or surrendered to the Authority by its holder:

Provided that a key official licence cannot be surrendered without the written consent of the Authority.

Part V

Control System

Specifications of control system.

20. (1) An applicant for a licence shall submit in writing to the Authority for the purposes of approval the specifications of the control system he intends to use during operations:

Provided that licensees whose gaming system is hosted by a Class 4 licensee shall be exempted from this requirement.

(2) Such submissions shall include detailed information relating to:

- (a) the operation of remote gaming;
- (b) general procedures to be followed for the operation of remote gaming;
- (c) computer software where applicable;
- (d) procedures for recording and paying prizes won in remote gaming;
- (e) accounting systems and procedures;
- (f) procedures to be followed to play a game;
- (g) procedures and standards for the maintenance, security, storage and transportation of equipment to be used to conduct remote gaming;
- (h) procedures for the setting up and maintenance of

security facilities including general compliance and internal controls relating to access to critical systems;

- (i) a disaster recovery plan;
- (j) an adequate system of data backup;
- (k) any other information that the Authority may require:

Provided that the provisions of this regulation shall also apply when a licensee intends to change a control system which had been approved by the Authority.

21. (1) The Authority may at its sole discretion, submit or direct the applicant or licensee to submit the proposed control system or an approved control system, to an audit. Testing of control system.

(2) The costs incurred for such audit shall be borne by the applicant or the licensee as the case may be.

22. In considering whether to grant the approval mentioned under regulation 20 the Authority shall have regard to the following matters: Approval of control system.

- (a) whether the proposed control system or the proposed changes to the control system satisfy all the requirements of the Act and these regulations;
- (b) whether the proposed control system or the proposed changes to the control system are capable of providing satisfactory and effective control over the operation of remote gaming.

23. The Authority shall by written notice inform the applicant or licensee of its decision and where approval in terms of regulation 22 has not been granted, the Authority shall give reasons for its refusal to grant approval: Notice by the Authority.

Provided that in cases where approval is granted, the Authority shall have the right to direct the applicant or licensee, by means of a directive, to change or modify the approved control system in any manner whatsoever, within a period of time which shall not be less than thirty days from the date on which the directive is served on the applicant or licensee:

Provided further that failure to comply with such directive shall constitute sufficient grounds for the Authority not to issue a licence or to suspend the licence as the case may be.

24. All remote gaming shall be conducted under the control system which has been approved by the Authority. Gaming to be conducted under control system.

Part VI

Gaming System

25. An applicant for a licence or a licensee shall, in respect of a new gaming system, and before any such system becomes operational, provide adequate certification that may be required by the Authority: Conformity of gaming system.

Provided that the certification must show that gaming

system has been found within the previous six months to comply with each and all the technical specifications laid down in the Third Schedule.

Certification of gaming system.

26. The certification submitted to the Authority for approval must, where the system is based on computer software, include the following information:

- (a) the name of the owner of the software;
- (b) the name of the organisation which did the testing required by the Authority;
- (c) all companies and organisations involved in the process and their credentials;
- (d) all individuals involved in the process and their professional credentials;
- (e) the processes, rules and parameters of the games;
- (f) the server protocols, communication protocols and other specifications which are part of the gaming system architecture;
- (g) information about the security of the system;
- (h) which modules affect processes, rules and parameters of the game if the source-code is changed;
- (i) any other information that is of material importance to the specific software;
- (j) a detailed description of the setup and functionality of the application architecture and system architecture.

Changes to gaming system require approval.

27. No changes to the gaming system shall be made without the prior approval of the Authority and additional certification of compliance.

Notice by the Authority.

28. Where approval of the system is not granted the Authority shall inform the applicant or licensee of its decision in writing stating its reasons for refusal.

Further testing of gaming system.

29. Notwithstanding that the system has been approved for operation, the Authority may at any time direct the licensee to submit at the licensee's cost, the system's software for further testing, checking or verification.

Gaming equipment.

30. (1) No gaming equipment may be used in the operation of an authorised game pursuant to an online betting or online gaming licence, without the prior approval of the Authority.

(2) The Authority may, by written notice, require that gaming equipment be submitted for certification by an approved company or organisation.

Approved certification companies.

31. The Authority may at any time after these regulations come into force publish a list of approved certification companies and organisations.

Part VII

Registration of Players

32. (1) A licensee shall not permit a person to participate as a player in an authorised game conducted by the licensee unless that person is registered as a player and holds an account with the licensee.

Application for registration of players.

- (2) (a) The licensee may register a person as a player only if the licensee has received from that person an application for registration.
- (b) The application shall at least include the following details:
 - (i) that the player is over eighteen years of age;
 - (ii) the player’s identity;
 - (iii) the player’s place of residence;
 - (iv) the player’s valid e-mail address:

Provided that if a licensee becomes aware that a person has provided false information in this respect, the licensee shall not register such person and where that person has already been registered, the licensee shall immediately cancel that person’s registration as a player with the licensee.

(3) No person under eighteen years of age may be registered as a player and any funds deposited or any money won by any such persons shall be forfeited to the Authority.

(4) The licensee shall, at all times, keep a secure online list of all registered players.

(5) Any one player can only register a single account with the licensee.

33. The licensee shall make available to a player the following information:

Information to be made available to players.

- (a) all the rules relating to authorized games conducted by the licensee;
- (b) any relative processing fee that may be incurred by the player.

34. The player of an authorized game shall comply with all the rules mentioned in regulation 33(a).

Players to comply with rules.

Part VIII

Players’ Accounts and Payment of Winnings

35. (1) The licensee shall establish and maintain a player’s account in relation to each player who is registered with the licensee.

Players’ account to be kept.

(2) The licensee must credit to the account established under sub-regulation (1) in respect of a registered player all funds -

- (a) received by the licensee from or on behalf of the player; or
- (b) owned by the licensee to the player.

(3) The licensee shall not accept a wager from a player unless:

- (a) a player’s account has been established in the name of

the player and there are adequate funds in the account to cover the amount of the wager; or

(b) the funds necessary to cover the amount of the wager are provided in an approved way.

(4) The licensee shall not accept cash from a player and funds may be received from the player only by any of the following methods:

- (i) credit cards;
- (ii) debit cards;
- (iii) electronic transfer;
- (iv) wire transfer;
- (v) cheques;
- (vi) any other method approved by the Authority.

(5) A licensee shall not provide credit to a player or a player's account or act as agent for a credit provider to facilitate the provision of credit to a player or a player's account.

Payment to
players.
*Amended by:
L.N. 426 of 2007.*

36. A licensee shall not make a payment in excess of two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) out of a player's account to a player until the player's identity, age and place of residence have been verified.

Remission of
funds.

37. (1) A licensee must, at the request of the registered player in whose name a player's account is established, remit the funds standing to the credit of the account to the player by no later than five working days, if practicable, after receipt of the request.

(2) An amount may only be remitted by the licensee to the player, to the same account from which the funds paid into the player's account originated.

(3) A licensee may, before remitting funds to a player in accordance with sub-regulation (1), take such time as is reasonably necessary for the purpose of:

- (a) verifying the player's registration as a player;
- (b) verifying the playing of a game by the player;
- (c) conducting security and other internal procedures in relation to the player's account; and
- (d) ensuring that the rules that are approved relating to the award of the prizes to players have been complied with.

Dealing with
players' monies
restricted.

38. A licensee shall not deal with the amount standing to the credit of a player's account except:

- (a) to debit to the account a wager made by the player or an amount the player indicates the player wants to wager in the course of an authorised game the player is playing or about to play;
- (b) to remit funds standing to the credit of the account to the player, at the player's request, in terms of regulation 37;

- (c) to pay reasonable bank charges for deposits received and funds withdrawn; or
- (d) as otherwise authorised by these regulations.

39. If no transaction has been recorded on a player's account for thirty months, the licensee shall remit the balance in that account to the player, or if the player cannot be satisfactorily located, to the Authority:

Handling of players' monies.

Provided that no claim shall lie against a licensee who has remitted the balance in a player's account to the Authority.

40. (1) A licensee shall keep players' funds separately from the licensee's own funds in a Clients' account held with a credit institution approved by the Authority.

Players' monies to be kept in separate accounts.
Amended by:
L.N. 110 of 2006.

- (2) (a) The funds in the players' account, including funds in transit or in the process of being cleared through the banking system or by credit card processing companies, shall at any time be at least equal to the aggregate of the amount standing to the credit of players' accounts held by the licensee:

Provided that if the funds standing to the credit of the clients' accounts fall below the aggregate total of the amounts standing to the credit of players' accounts, the licensee shall make good the shortfall from the licensee's own funds within a period of thirty days of the end of the month in which the shortfall occurs.

- (b) The Authority may, at its sole discretion, consider funds held in other accounts belonging to or controlled by the licensee to be included with funds in the clients' accounts for the purpose of this regulation.

(3) The credit institution holding a clients' account shall declare and affirm in writing that:

- (a) it will not attempt to enforce or execute, any charge, write-off, set-off or other claim against a clients' account;
- (b) it will not combine the account with any other account in respect of any debt owed to it by the licensee;
- (c) it shall credit any interest payable on a clients' account, only to that account:

Provided that the licensee shall tender proof of these commitments by the credit institution to the Authority.

- (4) (a) For the purpose of protecting players' funds the Authority may, for just cause, order by means of a directive the licensee to take out a bank guarantee in favour of the Authority.

- (b) The bank guarantee shall be in such amount and for such period of time, as determined by the Authority:

Provided that if the licensee fails to comply with the directive within three working days from the issue of such

directive, the Authority may suspend the licence.

(5) For the purpose of avoiding doubt as to the effect of this regulation, save as may be explicitly stipulated in the garnishee order, any precautionary or executive garnishee order shall not have any effect or be construed as ever having had any effect on players' funds, including funds in the licensee's clients' account held with a credit institution or in an account of a trustee who on behalf of the licensee holds, manages, administers or deals in any other way with players funds, held with a credit institution, players' funds in transit or in the process of being cleared through the banking system or by credit card processing companies, including credit or financial institutions, and any players' funds held in other accounts held with a credit institution belonging to or controlled by the licensee or belonging to or controlled by a trustee as aforesaid, as the Authority may have determined in terms of sub-regulation (2)(b) to be included with funds in the clients' accounts.

Information to the Authority about players' account.

41. The licensee shall instruct and authorise the credit financial institution by which a players' account is held to disclose any information as may be requested by the Authority in respect of a player's account.

Part IX

Financial Protection of Players

Problem gaming warning.

42. A licensee shall display at all times, in a prominent place, on the entry screen of the website, a warning of the addiction possibilities of gaming and information and links to other websites assisting compulsive gamblers.

Limits set by player

43. (1) A registered player may by written notice or electronic notice to the licensee:

- (a) set a limit on the amount the player may wager within a specified period of time;
- (b) set a limit on the losses the player may incur within a specified period of time;
- (c) set a limit on the amount of time the player may play in any one session;
- (d) exclude the player from playing for a definite or indefinite period of time.

(2) A player who has set a limit or exclusion under this regulation may change or revoke the limit or exclusion by written notice or electronic notice given to the licensee.

(3) A notice increasing or revoking a limit or decreasing the exclusion has effect only after seven days after the licensee has received the notice.

(4) A notice reducing a limit or increasing the exclusion has effect immediately after it is received by the licensee.

(5) A licensee shall not accept a wager from a player contrary to a limit or exclusion set by the player under this regulation.

44. (1) Where the game is displayed on a screen the licensee shall cause to be displayed on the screen, at all times during the game, a counter which automatically updates and shows the player's account balance. Display of counters.

(2) (a) The licensee shall also make available to every player an automatic reality check at intervals of one hour.

(b) The automatic reality check shall:

- (i) suspend play;
- (ii) clearly indicate for how long the player has been playing;
- (iii) display the player's winnings and losses during such period of time;
- (iv) require the player to confirm that the player has read the message;
- (v) give an option to the player to end the session or return to the game.

45. All amounts displayed relating to wagers and winnings shall be quoted with the symbol of currency that the player is playing with. Indication of currency.

46. Without prejudice to anything contained in regulation 45, full screen games cannot be offered to players unless a real time clock is displayed on the screen at all times and players are given the facility to exit the game. Full screen games prohibited.

Part X

Aborted and Miscarried Games

47. (1) A licensee shall take all reasonable steps to ensure that the licensee's approved computer system enables a player whose participation in a game is, after he or she has made a wager, interrupted by a failure of the telecommunications system or a failure of the player's computer system that prevents the player from continuing the game, to resume, on the restoration of the system, his or her participation in the game that was interrupted as at the time immediately before the interruption. Procedure to be followed when game aborts.

(2) If a licensee's computer does not enable a player to continue, after the restoration of the system, with a game interrupted by a failure of the telecommunications system or the player's computer system, the licensee shall:

- (a) ensure that the game is terminated;
- (b) refund the amount of the wager to the player by placing it in the player's account.

48. (1) If a game is started but miscarries because of a failure of the licensee's computer operating system, the licensee shall: Procedure to be followed when game miscarries.

- (a) (i) refund the amount wagered in the game to the player by crediting it to the player's account or, if the account no longer exists, by paying it to the player in an approved manner; and
- (ii) if the player has an accrued credit at the time the

game miscarries, credit to the player's account the monetary value of the credit or, if the account no longer exists, pay it to the player in an approved manner;

- (b) inform immediately the Authority of the circumstances of the incident;
- (c) refrain from conducting a further game if the game is likely to be affected by the same failure:

Provided that the Authority may, by written notice to the licensee, give the licensee other directions which the Authority considers appropriate in the circumstances.

Part XI

Website to be maintained by Licensee

Contents of homepage.

49. A licensee shall maintain a website, the homepage of which shall contain the following information:

- (a) the registered name of the licensee's company;
- (b) the address of the company's registered office;
- (c) the official number and date of issue of the licence;
- (d) a statement that the licensee's operations are regulated by the Authority;
- (e) hyperlinks to the website of organisations specialised in helping problem gamblers and which are approved by the Authority;
- (f) hyperlinks to the rules of the games or betting offered and the procedures adopted by the licensee for the registration of players;
- (g) the kite-mark of the Authority which shall double up as a link to the Authority's website;
- (h) any other information that the Authority may deem necessary and expedient:

Provided that the Authority may require all such information to be presented in a particular format.

Part XII

Keeping of Records and Accounts

Procedure to keep records.

50. The Authority may by written notice to a licence holder:

- (a) approve a place indicated by the licence holder, other than the licensee's registered office, as a place for keeping the licensee's remote gaming;
- (b) specify any remote gaming records of the licensee that are not required to be kept at the approved place;
- (c) specify remote gaming records of the licensee that may be kept temporarily at a place other than the approved place, and the period for which, or the circumstances in which, the records may be kept at such other place;

- (d) approve the keeping of information contained in a remote gaming record in a manner different from the manner in which the information is to be kept under the licensee's approved control system.

51. The licensee shall keep, in respect of the transactions and affairs relating to the remote gaming operations, proper accounts and records which show a true and fair view of the financial position and state of affairs of the licensee.

Accounts to show true and fair view of financial position.

52. (1) The licensee shall, within one hundred and eighty days from the end of its financial year, file with the Authority an audited set of financial statements prepared in accordance with international financial reporting standards.

Filing of financial statements.
Amended by:
L.N. 270 of 2007.

(2) The licensee shall, within thirty days from the end of the half yearly period, lodge with the Authority interim financial statements prepared in accordance with international financial reporting standards, showing the licence holder's results and signed by the key official.

(3) The Authority may require additional financial information in a format to be specified by the said Authority.

53. The Authority may, at its sole discretion, conduct an investigation of a licensee and, or a key official if it is brought to its attention or it has reason to believe that the licensee and, or key official are not conforming to the Act and, or these regulations.

Authority may conduct investigation.

Part XIII

Enforcement

54. (1) Without prejudice to anything contained in articles 18, 19 and 20 of the Act, an inspector shall for the purpose of ascertaining that these regulations and that all the conditions of a licence issued by the Authority under these regulations are being complied with, and that the full amount of fees, tax or any other sums payable under the Act or under these regulations are being paid, also have the following powers:

Power of inspectors.

- (a) to inspect, test and examine any equipment or software being used in the operation of remote gaming;
- (b) to remove any equipment or software to another place or premises approved and designated by the Authority, for the purpose of an inspection or examination;
- (c) to inspect any premises whether approved or not where equipment, software, documents or records are kept;
- (d) to request information or the production for inspection of any document or any other thing for the purposes of an inspection;
- (e) to remove any document or any other thing produced as a result of a request under the preceding paragraph or discovered during an inspection for the purpose of examining the document or other thing or making copies or taking extracts.

(2) An inspector removing equipment, software, document or other thing from approved premises or other place under 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 inspector may, for the purposes of evidence, detain any equipment, software, document or other thing that the inspector discovers while acting under this regulation and believes, on reasonable and probable grounds, may afford evidence of a violation of or a non-compliance with anything contained in these regulations:

Provided that copies of or extracts from documents or other things removed from a licensed premises or other place under this regulation, and certified by an official 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.

Conduct during inspections.

55. (1) The person who owns or is in charge of any place or premises entered by an inspector under regulation 54, and any employee or agent of such person shall give all reasonable assistance to the inspector to enable the inspector to exercise the powers given under articles 18 and 19 of the Act and regulation 54, and shall furnish the inspector with such equipment, software, records, documents, information or other thing as the inspector may reasonably request.

(2) No person shall hinder, obstruct or otherwise interfere with, or knowingly make a false or misleading statement, either orally or in writing, or provide or produce a false document or other thing to, an inspector who is carrying out his or her duties and functions under this regulation:

Provided that any act of commission or omission or any other behaviour in contravention of this regulation shall constitute an offence against the Act.

Part XIV

Handling of Complaints

Inquiry into complaints.

56. (1) A licensee shall immediately inquire into any complaint made to the licensee or to the Authority by a registered player in respect of the following:

- (a) the operation of a game operated by the licensee;
- (b) the conduct of an agent of the licensee in operation related to a game operated by the licensee.

(2) The licensee shall inform the complainant, or the Authority, where the complaint was referred to the licensee by the Authority, by notice in writing or by any telecommunication device, of the

results of the inquiry within twenty-one days from the date on which the complaint has been lodged with the licensee.

(3) Where a complaint is lodged directly with the Authority, the Authority may:

- (a) either inquire into the complaint itself; or
- (b) refer the complaint to the licensee against whom the complaint is made:

Provided that the licensee shall follow the procedure set down in sub-regulation (2).

(4) A complaint shall contain clear and unequivocal information about the complainant's identity, and shall give all the relevant details that gave rise to the complaint.

Part XV

Financial Provisions

57. A licensee shall pay to the Authority the rate of tax established in the Fourth Schedule.

Gaming tax.
Substituted by:
L.N. 90 of 2011.

Part XVI

Offences and Penalties

58. Any contravention of these regulations shall be considered an offence against the Act and any person so guilty of an offence shall, on conviction, be liable to a fine (*multa*) of not less than six thousand and nine hundred and eighty-eight euro and twelve cents (€6,988.12) and not more than two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (€232,937.34) or to imprisonment for a term of not more than two years, or to both such fine and imprisonment:

Contraventions,
fines and penalties.
Amended by:
L.N. 426 of 2007.

Provided that where the person convicted of such an offence is a recidivist, he shall be liable to a fine (*multa*) of not less than eleven thousand and six hundred and forty-six euro and eighty-seven cents (€11,646.87) and not more than three hundred and forty-nine thousand and four hundred and six euros and one cent (€349,406.01), or to imprisonment for a term of not less than six months and of not more than three years, or to both such fine and imprisonment:

Provided further that where the person so found guilty is the director, manager, secretary or other similar officer of a company or other undertaking, the said person shall, for the purpose of this regulation, be deemed to be vested with the legal representation of the same company or other undertaking, which shall accordingly be liable *in solidum* with the person found guilty for the payment of the said fine.

59. (1) Without prejudice to anything contained in articles 67, 68, 69, 70, 71, 72, 73 and 74 of the Act, the Authority may, with the concurrence of a licensee who contravenes a condition of his licence, or any directive issued by the Authority under these regulations, impose an administrative fine or sanction upon such licensee:

Administrative
fine.
Amended by:
L.N. 426 of 2007.

Provided that such an administrative fine or sanction may be imposed as an alternative to proceedings in court and it shall not exceed two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (€232,937.34).

Part XVII

Advertising

Limits of
advertising.

60. (1) No licensee shall in any way engage in advertising or permit anyone involved in the licensee's operations to engage in advertising that:

- (a) implies that remote gaming promotes or is required for social acceptance, personal or financial success or the resolution of any economic, social or personal problems;
- (b) contains endorsements by well-known personalities that suggest remote gaming contributed to their success;
- (c) is specifically directed at encouraging individuals under eighteen years of age to engage in remote gaming;
- (d) exceeds the limits of decency.

(2) The licensee shall not engage in any activity that involves sending of unsolicited electronic mail, whether it is through its own operation or by the intervention of third parties.

First Schedule
Regulation 3
Licences

*Amended by:
L.N. 90 of 2011.*

Applicants may apply for either or all of the following licences:

- (a) Class 1 Remote Gaming Licence shall be a remote gaming licence.
- (b) Class 2 Remote Gaming Licence shall be a remote betting office licence.
- (c) Class 3 Remote Gaming Licence shall be a licence to promote and, or abet remote gaming from Malta.
- (d) Class 4 Remote Gaming Licence shall be a licence to host and manage remote gaming operators, excluding the licensee himself.

Second Schedule
Regulation 6
Application and Licence Fees

*Amended by:
L.N. 426 of 2007.
Substituted by:
L.N. 90 of 2011.*

1. Together with the submission of an application for the issuing of a remote gaming licence, an applicant shall pay to the Authority a fee of two thousand and three hundred and thirty euro (€2,330).
2. A licence fee of eight thousand and five hundred euro (€8,500) shall be paid by the licensee to the Authority, yearly in advance:
Provided that the first licence fee shall be paid immediately before the licence is issued by the Authority.
3. Upon application for the renewal of a remote gaming licence, a renewal fee of one thousand and five hundred euro (€1,500) shall be paid by the licensee to the Authority.
4. Together with any request or application made by a licensee for an approval by the Authority in terms of regulation 11(1) and (3), the licensee shall pay to the Authority a fee of one thousand and five hundred euro (€1,500).
5. Together with any request or application made by a licensee for an approval by the Authority in terms of regulation 11(4)(e), the licensee shall pay to the Authority:
 - (a) a fee of seventy euro (€70) for simple agreements, which shall be thereafter paid to the Authority annually unless the Authority is notified that the contractual arrangement has been terminated:
Provided that in no case shall any licensee pay a sum exceeding thirty thousand euro (€30,000) in terms of this paragraph;
 - (b) an administrative hourly fee for complex agreements, which shall be pre-determined and communicated to the licensee before the commencement of the approval process:
Provided that the Authority may require all applicants for such

approvals to pay the administrative costs incurred in order to have such agreements reviewed.

Third Schedule

Regulation 25

Technical requirement for gaming system

The gaming system must:

- (a) faithfully follow the game rules published by the operator; and
 - (b) provide over time no more than the expected house advantage to the operator.
2. Both the gaming and financial transactions must be congruent and secure.
3. The gaming system must satisfy the following criteria for randomness, following Schneier:
 - (a) the data must be randomly generated, passing appropriate statistical tests of randomness;
 - (b) the data must be unpredictable, i.e. it must be computationally infeasible to predict what the next number will be, given complete knowledge of the algorithm or hardware generating the sequence, and all previously generated numbers;
 - (c) the series cannot be reliably reproduced, i.e. if the sequence generator is activated again with the same input (as exactly as is reasonably possible) it will produce two completely unrelated random sequences.
4. The outcome of any game event, and the return to the player, must be independent of the CPU, memory, disk or other components used in the playing device used by the player.
5. The game or any game event outcome must not be affected by the effective bandwidth, link utilisation, bit error rate or other characteristic of the communication channel between the gaming system and the playing device used by the player.
6. The gaming system must be able to display for each game the following information on the current page or on a page directly accessible from the current page via a hyperlink:
 - (a) the name of the game;
 - (b) restrictions on play;
 - (c) instructions on how to play, including a pay-table for all prizes and special features;
 - (d) the player's current account balance;
 - (e) unit and total bets permitted;
 - (f) the rules of the game.
7. All financial reports produced by the gaming system must be congruent with gaming transaction reports and conversely:

Provided that all such reports shall be readily and freely available to the

Authority.

8. The gaming system must:
 - (a) be capable of producing monthly auditable and aggregate financial statements of gaming transactions, and
 - (b) calculate accurately all taxation and other monies due to the Authority.
9. The gaming system must maintain information about all games played, including:
 - (a) the identity of the player;
 - (b) the time the game began as recorded on the games server;
 - (c) the balance on the player's account at the start of the game;
 - (d) the stakes placed in the game (time stamped by the games server);
 - (e) the game status (in progress, complete, etc.);
 - (f) the result of the game (time stamped by the games server);
 - (g) the time the game ended as recorded by the games server;
 - (h) the amount won or lost by the player; and
 - (i) the balance on the player's account at the end of the game.
10. The gaming system must maintain information about significant events as follows:
 - (a) large wins;
 - (b) transfers of funds in excess of such amount as the Authority may from time to time direct by notice in writing to the operator;
 - (c) changes made by the operator to game parameters.
11. Any variations to any of the requirements specified in this Schedule shall be submitted to the Authority for its approval by notice in writing.

Fourth Schedule
Regulation 57
Taxation

Amended by:
L.N. 426 of 2007.
Substituted by:
L.N. 90 of 2011.

1. A licensee, duly licensed by the Lotteries and Gaming Authority, shall pay to the Authority on behalf of the Government the following rate of taxation:
 - (a) A Class 1 licensee, shall pay a sum equivalent to four thousand and six hundred and sixty euro (€4,660) for the first six months and subsequently seven thousand euro (€7,000) per month for the entire duration of the licence period:

Provided that a Class 1 Licensee operating on a hosting platform in possession of a Class 4 Remote Gaming licence, shall pay one thousand and two hundred euro (€1,200) per month for the entire duration of the licence.
 - (b) A Class 2 licensee, including a Class 2 licensee operating on a hosting platform in possession of a Class 4 remote gaming licence, shall pay a

sum equivalent to half of one per centum (0.5%) of the gross amount of bets accepted in remote betting operations.

- (c) A Class 3 licensee, including a Class 3 licensee operating on a hosting platform in possession of a Class 4 remote gaming licence, shall pay a sum equivalent to five per centum (5%) of real income:

Provided that the Authority, in accordance with article 76A of the Act, shall have the power to issue directives as it may deem necessary in respect of the computation of real income:

Provided further that the licensee shall not be entitled to any relief, reduction, credit or set-off of any kind in respect of such tax.

- (d) A Class 4 licensee, hosting and managing other remote gaming operators, shall pay -

- (i) no tax for the first six months;
- (ii) two thousand and three hundred and thirty euro (€2,330) per month for the subsequent six months; and
- (iii) four thousand and six hundred and sixty euro (€4,660) per month thereafter for the entire duration of the licence:

Provided that without prejudice to the provisions of regulation 3 of these regulations, the Class 4 licensee shall also pay a monthly tax of one thousand and one hundred and sixty-five euro (€1,165), for every operator which is not in possession of the relevant Class 1, Class 2 or Class 3 licence in terms of these regulations, being hosted and managed by the Class 4 licensee on its platform.

2. In all cases the tax due from each licensee shall be paid monthly by not later than the twentieth (20th) day of the following month.

3. In all cases the maximum tax payable by one licensee in respect of any one remote gaming licence, per annum, shall not exceed four hundred and sixty-six thousand euro (€466,000).

4. The gaming tax established by these regulations for every remote gaming licence issued by the Lotteries and Gaming Authority shall become due from the date when the gaming operation has commenced, unless otherwise specified by the Authority.

5. The Authority may issue directives regulating the granting of reduction, credit, set-off or other relief in respect of gaming tax, which shall be granted either on a unilateral basis or pursuant to bilateral or multilateral treaties, agreements, memoranda of understanding or other arrangements entered into with any foreign government or any local or foreign authority or government agency.
