

# Award in Gaming Law

Lecture Title: An Overview of the Maltese Gaming Legislative and Regulatory Framework (Part 2)

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Date: 6 March 2023



Diploma in Law (Malta)



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# Agenda

- (1) Applicable gaming taxes and licence fees;
- (2) Continuing obligations of licensees;
- (3) Offences against the Gaming Act, and sanctions for non-compliance;
- (4) The Malta Gaming Authority's powers in relation to compliance and enforcement measures; and
- (5) The notion of gaming debts under Maltese law.



# Gaming Licence Fees and Taxes



# Licence Fees – B2C Licensees

	Fixed Annual Licence Fees
Non-refundable fixed annual licence fee	€25,000
Non-refundable fixed annual licence fee for operators providing solely Type 4 gaming services	€10,000

# Compliance Contribution

**B2C Type 1 Gaming Services**  
 €275,000

**Minimum €15,000; Maximum**

Compliance Contribution for the Licence Period	Rate
For every euro of the first €3,000,000	1.25%
For every euro of the next €4,500,000	1.00%
For every euro of the next €5,000,000	0.85%
For every euro of the next €7,500,000	0.70%
For every euro of the next €10,000,000	0.55%
For every euro of the remainder	0.40%

# Compliance Contribution

**B2C Type 2 Gaming Services**  
 €600,000

**Minimum €25,000; Maximum**

Compliance Contribution for the Licence Period	Rate
For every euro of the first €3,000,000	4.00%
For every euro of the next €4,500,000	3.00%
For every euro of the next €5,000,000	2.00%
For every euro of the next €7,500,000	1.00%
For every euro of the next €10,000,000	0.80%
For every euro of the next €10,000,000	0.60%
For every euro of the remainder	0.40%

# Compliance Contribution

**B2C Type 3 Gaming Services**  
**€500,000**

**Minimum €25,000; Maximum**

Compliance Contribution for the Licence Period	Rate
For every euro of the first €2,000,000	4.00%
For every euro of the next €3,000,000	3.00%
For every euro of the next €5,000,000	2.00%
For every euro of the next €5,000,000	1.00%
For every euro of the next €5,000,000	0.80%
For every euro of the next €10,000,000	0.60%
For every euro of the remainder	0.40%

# Compliance Contribution

**B2C Type 4 Gaming Services**  
**€500,000**

**Minimum €5,000; Maximum**

Compliance Contribution for the Licence Period	Rate
For every euro of the first €2,000,000	0.50%
For every euro of the next €3,000,000	0.75%
For every euro of the next €5,000,000	1.00%
For every euro of the next €5,000,000	1.25%
For every euro of the next €5,000,000	1.50%
For every euro of the next €10,000,000	1.75%
For every euro of the remainder	2.00%



# Start-Up Undertakings – Exemption from Compliance Contribution

- (a) that person has been established or operational in the same or a related sector for less than 5 years;
- (b) in the case of a body corporate, that person has not yet distributed profit;
- (c) in the case of a body corporate, that person has not been formed through a merger or, if formed through a merger, all body corporates that formed part of the merger satisfy, in aggregate, all the criteria envisaged herein;
- (d) that person has not acquired the business as a going concern or, if so, the acquirer and the acquired both satisfied all criteria envisaged herein;
- (e) that person has generated actual revenue from the same, or a related, sector during the previous thirty-six months amounting to less than €10,000,000;
- (f) that person is not part of, or controlled by, a corporate group whose actual revenue in the same, or a related sector within the previous 36 months exceeds €10,000,000;
- (g) that person is not subject to the requirement of a Government concession to offer the gaming service in accordance with the proviso to regulation 4 of the Gaming Authorisations Regulations.



# Licence Fees – B2B Licensees

	Initial Fixed Licence Fee
Non-refundable fixed annual licence fee	€25,000
Non-refundable fixed annual licence fee (back-office)	€10,000

# Licence Fees – B2B Licensees

Non-Refundable Licence Fees payable by B2B Licensees supplying & managing material elements of a game (i.e. game provider)	
Annual Revenue	Licence Fee
Where annual revenue does not exceed €5,000,000	€25,000
Where annual revenue exceeds €5,000,000 but does not exceed €10,000,000	€30,000
Where annual revenue exceeds €10,000,000	€35,000

# Licence Fees – B2B Licensees

Non-Refundable Licence Fees payable by B2B Licensees supplying and managing software (back-end services)	
Annual Revenue	Licence Fee
Where annual revenue does not exceed €1,000,000	€3,000
Where annual revenue exceeds €1,000,000	€5,000

# Gaming Tax

- Any person providing or carrying out a gaming service from Malta, or to any person in Malta, whether through means of distance communication or in a gaming premises or by any other means to any player who is physically present in Malta at the time when the gaming service is actually provided shall (in addition to the levy on gaming devices, if any), be subject to the payment of a gaming tax calculated at the rate of 5% of the gaming revenue generated from said gaming service.



# Gaming Levy

- A levy on gaming devices is due and payable to the MGA in each and every tax period.
- Calculated as a % of the aggregate gaming revenue generated during the relevant tax period.
- Paid throughout the tax period by way of monthly instalments.



# Gaming Levy

	Gaming Levy
Gaming devices deployed in gaming premises in the provision of Type 1 and/or Type 2 gaming services	30%
Gaming devices deployed in gaming premises in the provision of Type 3 and/or Type 4 gaming services	12.5%
Gaming devices deployed in controlled gaming premises in the provision of Type 1, Type 2, Type 3 and/or Type 4 gaming services	15%
Junket	2.5%
Junket activity	2.5%
Use of a premises as a studio to film and/or broadcast a gaming service or a critical gaming supply	€500

# Other Administrative Fees

- The Fourth Schedule to the Gaming Licence Fees Regulations provides a list of administrative fees which are payable to the MGA by persons, including licensees, submitting any application, or requesting any approval from the MGA.
- The MGA may levy any administrative fees as it is empowered to do so in terms of the Gaming Act, any subsidiary legislation made thereunder, by virtue of a regulatory instrument.





# Other Administrative Fees

	Administrative Fee
<b>One-time non-refundable licence application fee</b>	€5,000
<b>One-time non-refundable licence renewal fee</b>	€5,000
<b>One-time non-refundable licence application fee for a limited duration licence</b>	€500
<b>Maintenance fee for a holder of a limited duration licence</b>	€50 per day whilst the licence is in effect
<b>Request for approval of a new gaming device</b>	€100 per device
<b>Recognition Notice fee payable yearly in advance</b>	€5,000
<b>One-time non-refundable key function approval application fee</b>	€50
<b>One-time non-refundable amusement machine registration fee</b>	€50

# Continuing Licensees Obligations of



# Ongoing Compliance

- Following acquisition of a licence, licensees must ensure compliance with their obligations under the Gaming Act, and the various regulatory instruments.



# Compliance Audit

- Every licensee is required to undergo a number of compliance audits of their operations as follows:
  - (a) after the first year of operation after being licensed by the MGA; and
  - (b) at any other time at the request of the MGA.
- The compliance audits are to be performed by an approved service provider appointed by the licensee and completed within 90 days from the MGA's notice.
- Failing a compliance audit may lead to the suspension or termination of a licence.
- The MGA also carries out constant physical inspections at the premises of licensed land-based gaming establishments, ensuring that such operators are complying with their pertinent rules and regulations.



# Information and Reporting Requirements

- Licensees are under an obligation to obtain the prior approval, or notify the MGA, within a specified timeframe, prior to or following (as the case may be), the occurrence of a number of changes and/or events.



# Prior Approval Requirements

Licensees are required to obtain the prior written approval of the MGA prior to making any of the following changes:

1. any changes to the player funds accounts or any other measure affecting the protection of player funds;
2. addition of a new channel of delivery;
3. addition of a new gaming vertical;
4. addition of new gaming premises;
5. addition of a new studio to record live casino services;
6. changes to the essential components; and
7. changes to the directors or persons holding an equivalent position in another entity.



# Prior Approval Requirements

B2B licensees are also required to obtain the prior written approval of the MGA:

- (a) in the case of a game provider, if it wishes to provide back-end services as well; and
- (b) in the case of a provider of back-end services, if it wishes to act as a game provider as well.



# Notification Requirements

Licenses are required to notify the MGA forthwith, and in any case no later than 30 days after, the occurrence of the following events:

1. any investment in the licensee other than by a subscription for shares;
2. the taking of a loan by the licensee from a credit institution licensed outside the EU/EEA;
3. matters which significantly affect the financial standing of the licensee in an adverse manner (such as a petition to be wound up (dissolution), receivership/administration/bankruptcy);
4. any default by the licensee (or where the licensee is a body corporate, by a group company) in making the repayment of the whole or part of a loan in a timely manner;
5. reduction/addition of one or more payment methods offered to players;
6. reduction of payment service providers;





# Notification Requirements

Licensees are required to notify the MGA forthwith, and in any case no later than 30 days after, the occurrence of the following events:

7. changes to the key technical setup which are not changes to essential components;
8. any criminal investigation or prosecution by a competent authority which relates to the licensee, whether as an investigated party or as an alleged victim of crime;
9. application by the licensee or a group company for a gaming licence from a foreign jurisdiction;
10. attainment by the licensee or a group company of a gaming licence from a foreign jurisdiction;
11. changes to any information submitted to the Authority;
12. any other matter that can materially affect the authorised gaming service or supply



# Notification Requirements

Licensees are required to notify the MGA forthwith, and in any case no later than **3 working days** after, the occurrence of the following events:

1. any change in direct/indirect qualifying shareholding within the licensee (10% threshold);
2. the commencement in any jurisdiction of material litigation against the licensee and the outcome thereof when known;
3. any breach of the licensee's information security that adversely affects the confidentiality of information relating to players;
4. any breach of the licensee's information security that precludes players from accessing their accounts for more than 12 hours;
5. refusal by a foreign jurisdiction to issue a gaming licence to the licensee or a group company;



# Notification Requirements

Licensees shall notify the MGA forthwith, and in any case no later than **3 working days** after, the following:

6. suspension/cancellation by a foreign jurisdiction of a gaming licence to the licensee or group company ;
7. removal of a channel of delivery;
8. removal of a gaming vertical;
9. resignation/dismissal of Key Person;
10. changes to Key Persons.



# Reporting Requirements

- There are also yearly, half-yearly and monthly reporting requirements imposed on licensees.
- Different reporting obligations are imposed on B2C and on B2B licensees.



# Monthly Reporting Requirements

- B2B Compliance Reports;
- Gaming Tax Reports;
- Player Funds Reports;
- Alternative Dispute Resolution Reports.



# Half Yearly and Yearly Reporting Requirements

- Interim Financial Statements;
- Industry Performance Reports;
- Audited Financial Reports.



# Suspicious Betting Reporting Requirements

Licenseses that offer a gaming service and, or critical gaming supply relating to betting on sport and, or sporting events shall notify the MGA of any instance relating to suspicious betting.

Moreover, licenseses that offer a gaming service and, or a critical gaming supply relating to betting on sport and, or sporting events shall notify the MGA of any circumstances which may lead to one or more bets being voided owing to a suspicion of the manipulation of the sport and, or sporting event to which they relate.





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# Offences against the Gaming Act, and sanctions for non-compliance



# Offences against the Gaming Act

Amongst others, it shall be the function of the MGA to:

- prevent, detect and ensure the prosecution of any offence against the Gaming Act or regulations made thereunder; and
- collaborate with other local or foreign bodies, Government departments, international organisations and other entities which exercise regulatory, supervisory or licensing powers under any law in Malta or abroad, or which are otherwise engaged in overseeing or monitoring areas or activities in the gaming sector or sectors connected therewith, and to make arrangements for the mutual exchange of information and for other forms of assistance or collaboration in regulatory and supervisory matters; and
- give such directions and impose such sanctions as it may consider necessary in connection with a breach of the Gaming Act or any other regulatory instrument or binding instrument.



# Provision of activity without the requisite authorisation

Article 13 of the Gaming Act provides as follows:

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



# Provision of credit to players

Article 15 of the Gaming Act provides as follows:

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



# Counterfeiting and forgery

Article 29(1) and (2) of the Gaming Act:

*“(1) It shall not be lawful for a person –*

- (a) to forge, counterfeit or tamper with any device or any authorisation or other document whatsoever issued under, used or to be used for the purposes of this Act or any other regulatory instrument; or*
- (b) knowingly to utter any such forged, counterfeit or tampered with device or authorisation or other document.*

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



# Place used for unlawful gaming

Article 30(1) of the Gaming Act:

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



# Failure to comply with requirement imposed under MGA notice

Article 32(1) of the Gaming Act:

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



# False, misleading or incomplete statements

Article 33 of the Gaming Act:

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





# Criminal Offences

1. Providing a gaming service and, or a critical gaming supply which requires a licence, without the necessary licence issued by the Authority or another competent authority in the European Union or the European Economic Area, or aiding, abetting or otherwise facilitating such a provision.
2. Acting contrary to, or not adhering to the fullest extent possible to, an order issued by the Authority, howsoever named.
3. Committing one or more of the breaches envisaged in articles 29, 30, 32 and 33 of this Act.
4. Preventing, obstructing, or delaying any Police officer or any officer of the Authority lawfully authorised to enter any premises suspected to be used in contravention of any regulatory instrument, or giving an alarm or warning in case of such entry.



# Criminal Offences

5. Using, transferring the possession of, sending or delivering to any person or place, acquiring, receiving, keeping, transporting, transmitting, altering, disposing of or otherwise dealing with, in any manner or by any means, any money, property (whether movable or immovable) or any proceeds of any such money or property with intent to conceal or convert that money or property or those proceeds and knowing or suspecting that all or a part of that money or property, or of those proceeds, was obtained or received, directly or indirectly, as a result of any act of commission or omission which constitutes an offence against this Act.
6. Failing to effect payments to players when lawfully due: Provided that where it is disputed whether a payment is lawfully due or otherwise, such payment will be deemed to be lawfully due for the purpose of this provision when there is a final binding decision to that effect by a competent court of law or dispute resolution entity.
7. Failing to ensure the integrity and availability of essential regulatory data.
8. Any other breach specified in any regulatory instrument which is defined therein as giving rise to a criminal offence or an offence against this Act.



# Penalty for Criminal Offences against the Gaming Act

Article 23(1) of the Gaming Act:

*“Any person guilty of a breach stipulated in the Third Schedule shall, on conviction, be liable to a fine (multa) of not less than €10,000 and not more than €500,000 or to imprisonment for a term of not more than 5 years, or to both such fine and imprisonment.”*



# Criminal Proceedings

- No criminal proceedings under the Gaming Act or any other regulatory instrument shall be taken except at the instance or with the sanction of the MGA, and proceedings that have been so taken may, at any time before final judgment, be withdrawn at the request of the MGA.
- Criminal proceedings for an offence against the Gaming Act or any other regulatory instrument shall be barred by prescription by the lapse of 6 years.



# Penalty by Agreement

Article 25(1) of the Gaming Act:

*”Notwithstanding any other provision of this Act, and without prejudice to any other proceedings to which the person in breach may be liable to under any other law, in the case of any breach mentioned in the Third Schedule, the Authority may, with the concurrence of the person committing the breach and subject to the rectification of the breach, impose a penalty not exceeding five hundred thousand euro (€500,000) for each infringement or failure to comply and, or a sum not exceeding five thousand euro (€5,000) for each day of infringement or non-compliance, and, or any other administrative sanctions as an alternative to criminal court proceedings. Upon conclusion of such agreement, the offender’s criminal liability under this Act with regard to the offence or offences in relation to which the agreement has been entered, shall be extinguished:*



# Administrative Penalty

Article 25(3) of the Gaming Act:

*“In the case of a breach of any regulatory instrument which is not mentioned in the Third Schedule, the Authority may impose an administrative penalty not exceeding twenty-five thousand euro (€25,000) for every breach or non-compliance and, or an administrative penalty not exceeding five hundred euro (€500) for each day on which the breach persists.”*



# Forfeiture in favour of the Malta Gaming Authority

Article 27 of the Gaming Act:

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



# Right of Appeal

Article 43(1) of the Gaming Act:

*“Any person who feels aggrieved by a decision of the Authority may enter, within twenty days after the date of service upon him of notice of the Authority’s decision, an appeal to the Administrative Review Tribunal:”*





# The Malta Gaming Authority's powers in relation to compliance and enforcement measures



# Continuous Compliance

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

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

*Regulation 3 of the Gaming Compliance and Enforcement Regulations*



# Powers of the Malta Gaming Authority

The MGA has the power to require authorised persons to, on a regular or *ad hoc* basis:

- i. take actions;
- ii. implement procedures or systems;
- iii. make submissions;
- iv. provide information, reports, compliance certificates and/or any other evidence of compliance;

in order to demonstrate thereto, the authorised person's compliance with all applicable regulatory instruments.



# Powers of Officers of the Malta Gaming Authority

1. to inspect, test and, or examine any equipment, software or other thing being used in the provision of a gaming service, a gaming supply, or a key function;
2. to remove any equipment, software or other thing to another place or premises approved and, or designated by the Authority, for the purpose of an inspection and, or examination;
3. to inspect any premises, whether authorised by the Authority or otherwise, in which gaming is taking place or in which he reasonably suspects that gaming is taking place, or in which there is, or he reasonably suspects that there is, any equipment, software or any other thing related to such gaming;



# Powers of Officers of the Malta Gaming Authority

4. to demand information or the production of any document or other thing related to gaming or which he reasonably suspects relates to gaming for the purpose of an inspection and, or examination, including but not limited to requiring any person found within any premises in which gaming is taking place to produce identification documents and, or evidence of his age;
5. to remove any document or other thing produced as a result of a request under the preceding paragraph or discovered during an inspection for the purpose of examining it and, or making copies or taking extracts or otherwise documenting its existence and, or characteristics;
6. to play a game or games for the purpose of confirming whether such game requires authorisation in terms of the Act or any other regulatory instrument;



# Powers of Officers of the Malta Gaming Authority

7. to play a game or games which are authorised by the Authority to be offered for the purpose of confirming whether such game is compliant with the Act and any other applicable regulatory instruments;
8. to demand information and, or the production of any document or other thing, from any person whom the officer of the Authority reasonably suspects to be conducting gaming without the necessary authorisation, or aiding or abetting gaming without the necessary authorisation;
9. to access, retrieve and, or make extracts or copies of any data, information and, or any document or other thing pertaining to an authorised person, including but not limited to surveillance footage and any recording by whatever means of video, audio and, or any information wherever such data, information, document or other thing is located;



# Powers of Officers of the Malta Gaming Authority

10. To call to his assistance for the purpose of carrying out his functions - (i) another officer of the Authority; (ii) any member of the Police Force, any local council, any department of Government or any agency of Government, or any other public authority, whether local or foreign;
11. to do all such things as may be ancillary or conducive to his powers and duties under the Act, these regulations and any other regulatory instrument or any other law.

Provided that, in exercising any of the powers under this provision, the officer of the Authority shall respect the principles of data minimisation and proportionality as defined within data protection legislation. Furthermore, the Authority shall not retain any copies or extracts beyond what is necessary in the exercise of the relevant power.



# Compliance Audit

- The MGA also has the power to require authorised persons to undergo a compliance audit, whether on a regular or on an *ad hoc* basis.
- The MGA shall only recognise compliance audits which are carried out by auditors approved by the MGA.





# Compliance Review

- The MGA also has the power to initiate a review of all or part of the conduct and/or operations of an authorised person, where it deems this to be necessary.
- If the MGA discovers conduct and/or operations which aren't, or may not be, in accordance with the applicable regulatory instruments, the MGA will notify the authorised person and give such authorised person reasonable time to make any relevant submissions.



# Formal Investigation

The MGA has the right to initiate a formal investigation of the authorised person when:

- (i) it has reason to suspect that an authorised person is conducting its affairs in breach of any applicable regulatory instruments; or
- (ii) the authorised person is otherwise no longer suitable to hold such authorisation.



# Formal Investigation

On conclusion of its investigation, the MGA is required to provide the authorised person with a report thereon and said report is to include the following:

- (i) the reason/s for which the investigation was initiated;
- (ii) the breaches of applicable regulatory instruments by the authorised persons, if any, and the evidence proving such breaches; and
- (iii) the enforcement measures which the MGA deems fit to take in the circumstances, if any.



# Formal Investigation

- The authorised person may contest the findings in the MGA's report within 20 days from the date of notification thereof.
- Upon receiving said contestation or, if no contestation is received, upon the lapse of 20 days from the date of notification of the MGA's report, the MGA shall communicate to the authorised person its final decision on the matter i.e. confirming, revoking or otherwise amending its report.



# Enforcement Measures

The MGA may take the following enforcement measures:

(i) an **order** directing the authorised person to do, or to refrain from doing, something or to otherwise correct its conduct and/or operations; and/or

(ii) a **warning**, directing the person to do, or refrain from doing, something in the future; and/or

(iii) **adding, removing or amending conditions** attached to the authorisation held by said authorised person; and/or

(iv) **imposing an administrative penalty** not exceeding €25,000 for every breach or non-compliance and/or an administrative penalty not exceeding €500 for each day on which the breach persists (in the case of a breach which is not an offence against the Gaming Act); and/or

(v) without prejudice to article 25(1) of the Gaming Act, filing a report to the Executive Police for the **commencement of criminal proceedings** (in the case of a breach which is an offence against the Gaming Act); and/or

(vi) **suspending or cancelling the licence**, in terms of regulations 9 or 10, as the case may be, of the Gaming Compliance Enforcement Regulations.



## 23/01/2023 – Suspension of Authorisation for Betago Ltd (C-71266)



The Malta Gaming Authority (the 'MGA') is suspending the authorisation awarded to Betago Ltd (the 'Authorised Person'), holder of MGA licence MGA/B2C/355/2016, effective as of 22 August 2022, in terms of reg. 8 (1) (f) of the Gaming Compliance and Enforcement Regulations (S.L. 583.06) (the 'Regulations').

The Authorised Person is thus no longer authorised to carry out any gaming operations, but is required to retain and provide access to all registered players to their player accounts and to refund all funds standing to the credit of players in line with the applicable law.

This sanction is being imposed upon the Authorised Person for having breached the following provisions emanating from reg. 9 of the Regulations, as per the reasons manifested hereunder:

- 9 (1) (c) of the Regulations since the Authorised Person has failed to comply with one or more applicable obligations in terms of any regulatory instrument or any other applicable law of Malta;
- 9 (1) (d) of the Regulations since the Authorised Person has failed to discharge financial commitments for its operations; and
- 9 (1) (l) of the Regulations since the Authorised Person has failed to pay in a timely manner all amount due to the Authority.

This decision may be subject to an appeal in terms of article 43 of the Gaming Act (Chapter 583 of the Laws of Malta).





## 15/02/2023 – Cancellation of Authorisation for BetDino Ltd (C 85796)15/02/2023



The Malta Gaming Authority, hereinafter the "Authority", has decided to cancel the authorisation awarded to BetDino Ltd (MGA/B2C/276/2014), hereinafter the "Authorised Person", effective as of 18 January 2023, in terms of regulation 10 of the Gaming Compliance and Enforcement Regulations (S.L. 583.06), hereinafter the "Regulations".

This sanction is being imposed upon the Authorised Person for having breached regulation 9 (1) (c) and (l) of the Regulations, as per the reasons manifested hereunder: –

- the Authorised Person has failed to comply with one or more applicable obligations in terms of any regulatory instrument or any other applicable law of Malta; and
- the Authorised Person has failed to pay in a timely manner all amounts due to the Authority.

The Authorised Person is thus no longer authorised to carry out any gaming operations and shall remove, with immediate effect, any reference to the Authority and the authorisation.

# Grounds for Suspension

1. the Authority is satisfied that the authorised person, or a person holding a direct or indirect interest in the authorised person, or a person holding a key function in the authorised person, is not, or has ceased to be, in the opinion of the Authority, fit and proper to hold such authorisation;
2. the authorised person has failed to comply with an order issued by the Authority;
3. the authorised person has failed to comply with one or more applicable obligations in terms of any regulatory instrument or any other applicable law of Malta;
4. the authorised person has failed to discharge financial commitments for its operations or the Authority has reason to believe that such failure is imminent;
5. in the case of a natural person, the authorised person becomes incapable of exercising his or her functions as an authorised person due to physical and, or mental incapacity or for any other reason;





# Grounds for Suspension

6. the authorised person is bankrupt, insolvent or is being wound up;
7. the authorised person applies for an order, or is compelled by any means or for any reason, to discontinue or to wind up its operations;
8. the authorised person is in breach of the laws or regulations at any time in force for the prevention of money laundering and financing of terrorism;
9. the authorised person has failed to meet commitments to players in a timely manner, or the Authority has reason to believe that such failure is imminent;



# Grounds for Suspension

10. circumstances arise which, had they been present and known to the Authority at the time of issuance of the authorisation, would have led the Authority not to issue such authorisation;
11. the authorised person has failed to seek the prior approval of the Authority of any material change where such prior approval is required in terms of any regulatory instrument, or has failed to notify the Authority of such material change where such notification is required;
12. the authorised person has failed to pay in a timely manner all amounts due to the Authority;  
or
13. the Authority, in its sole discretion, has determined that there is material and sufficient reason for suspending the authorisation.



# Grounds for Cancellation

1. one of the grounds for suspension envisaged in regulation 9 arises and the MGA, in its sole discretion, determines that cancellation of the authorisation is the most appropriate measure;
2. the MGA has suspended the authorisation in terms of regulation 9 and, in the circumstances of the case, the MGA becomes satisfied that the matter which has led to the suspension cannot be rectified;
3. the authorisation has been voluntarily suspended for more than 6 months and the authorised person has not provided a plan outlining when it expects the authorisation to be reactivated, to the satisfaction of the MGA; or
4. the authorised person continues to provide a gaming service and, or a gaming supply and, or a key function, notwithstanding the suspension of the authorisation by the MGA in terms of regulation 9



# Purpose of Enforcement Measures

Ensuring that:

- the licensee rectifies any default;
- the interests of the players and those of the general public are adequately safeguarded;
- any financial gain which the authorised person may have made through non-compliance is neutralised; and
- the licensed operation can be carried out in adherence to regulatory requirements.



# Application of Enforcement Measures

In deciding which enforcement measure should be imposed, the MGA takes into account the considerations listed hereunder:

## 1. the nature of the breach;

- the impact / potential impact on financial stability;
- the duration and/or frequency;
- the impact on players;
- the likelihood that the same/similar type of breach will recur;



# Application of Enforcement Measures

In deciding which enforcement measure should be imposed, the MGA takes into account the considerations listed hereunder:

## 2. **mitigating and aggravating circumstances;** and

- whether deliberate or due to negligence;
- whether any attempt was made to conceal the failure/breach;
- how promptly, comprehensively and effectively the authorised person brought the breach to the attention of the MGA (and other agencies) after it was committed and the authorised person became aware of it;
- the degree of cooperation;

## 3. **the previous disciplinary and/or supervisory record** of the authorised person.



# Quantification in case of Penalties

Step 1 – where relevant, the disgorgement of any economic benefit obtained by the authorised person through the breach;

Step 2 – the determination of a figure which is appropriate in view of the nature and scale of the breach, and the extent to which it affects the regulatory objectives;

Step 3 –an adjustment to the figure taking into account any relevant aggravating or mitigating factors;

Step 4 –where appropriate, an adjustment taking into account the financial hardship which the administrative fine will cause to the authorised person where this may be deemed disproportionate to the breach committed (the burden of proving financial hardship lies in all cases with the authorised person).



# The notion of gaming debts under Maltese law





# The notion of gaming debts under Maltese law

Article 1713 of the Civil Code:

- (1) *The law grants no action for a gaming debt, or for the payment of a bet.*
- (2) *Nor does it grant any action –*
  - (a) *for the recovery of any sum lent by any person who knew that such sum was intended for gaming;*
  - (b) *for the recovery of any sum lent by any person interested in the game, for the payment of money lost at such game.*



# The notion of gaming debts under Maltese law

Article 1714 of the Civil Code:

*(1) Games which tend to help training in the use of arms, foot-races, horse-races, boat-races, ball-games and other games of the same kind which develop the dexterity and exercise of the body, are excepted from the provisions of the last preceding article.*

*(2) Nevertheless, the court may reduce the sum claimed when it appears to it to be excessive.*





**Diploma in Law (Malta)**



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