L.N. 76 of 2004

LOTTERIES AND OTHER GAMES ACT, 2001 (ACT NO. XXIV OF 2001)

Publication of a Directive by the Lotteries and Gaming Authority

THE Lotteries and Gaming Authority (hereinafter referred to as "the Authority") is hereby publishing the following Directive for the purposes of the Lotteries and Other Games Act, 2001 and of the National Lottery Gaming Devices Regulations, 2004:

Directive by the Lotteries and Gaming Authority.

1. (1) In this directive, unless the context otherwise requires:-

"first National Lottery licensee" means Maltco Lotteries Limited, a private limited liability company registered under the laws of Malta on 29th October, 2003 with registration number C32326;

"National Lottery licence" shall have the meaning assigned to it in article 2(1) of the Act and "First National Lottery licence" means the National Lottery licence dated 16 February, 2004 and issued by the Minister of Finance and Economic Affairs to the first National Lottery licensee under article 26(3) of the Act, being the first National Lottery licence issued under the said article 26(3) after the entry into force of Part VI of the Act;

"National Lottery relevant gaming device" shall have the meaning assigned to it in regulation 2 of the Regulations;

"listed relevant gaming device" means any relevant gaming device listed in Schedule 1 to this directive;

"the Regulations" means the National Lottery Gaming Devices Regulations, 2004.

(2) Any other term and expression used herein which is defined in article 2(1) of the Act or in regulation 2 of the Regulations shall, unless otherwise expressly defined in this directive or the context otherwise requires, have the same meaning as is assigned to it in the said article 2(1) of the Act or in regulation 2 of the Regulations, as the case may be.

2. Any person performing any licensable activity in respect of a listed relevant gaming device shall, by virtue of this directive, be exempt from the requirement to obtain a licence in terms of article 7(1) of the Act, unless:

(a) at the time of performance of such licensable activity, the said listed relevant gaming device qualifies as a National Lottery relevant gaming device;

(b) the said licensable activity is performed by the First National Lottery licensee or is procured or requested from other persons by the First National Lottery licensee for the purposes of such Listed Relevant Gaming Device being used or continuing to be used, after the performance of such licensable activity, solely and exclusively for the purposes of and in connection with the operation of the National Lottery in terms of or as contemplated by the first National Lottery licence and, or any other activity authorised in terms of the said first National Lottery licence.

For the avoidance of doubt, the exemption contained in this article 2 of this directive shall be without prejudice to the requirements for consents or authorisations (whether in respect of contractors, sub-contractors or employees of the first National Lottery licensee or other persons) or to the requirements for testing, repair or maintenance, or to any other requirements or conditions of the first National Lottery licence, or to the functions or powers of the Authority or the Minister or the Government of Malta or the obligations of the first National Lottery licensee under such first National Lottery licence or under the Act or regulations made thereunder, which in any way (whether directly or indirectly and whether generally or specifically) relate to any such listed relevant gaming devices as aforesaid.

3. Any person, other than the first National Lottery licensee, who is engaged or otherwise requested by the first National Lottery

licensee to perform a licensable activity in respect of a listed relevant gaming device may validly rely on the applicability of and benefits from the exemption granted under article 2 of this directive in respect of such licensable activity if, prior to performing such licensable activity, he obtains a written declaration from the first National Lottery licensee that the conditions specified in paragraphs (a) and (b) of article 2 of this directive are satisfied with respect to such licensable activity and such listed relevant gaming device and if, at the time of such declaration, such person has no knowledge and has and ought to have no reasonable cause to believe that the facts stated on such declaration are false or inaccurate, and such declaration may be validly relied upon by such person as 'prima facie' evidence of the facts stated thereon and such person shall not be deemed to have committed a breach of article 7(1) of the Act or an offence against the Act as contemplated in article 7(3) of the Act if he performs the said Licensable Activity without a licence in terms of the said article 7(1) of the Act, even though the facts stated on such declaration are or at any time after the issuance of such declaration become objectively false or inaccurate:

Provided that if at any time before or during the performance of such licensable activity such person becomes aware that, or becomes aware of any circumstances which give him or ought to give him reasonable cause to believe that, the facts stated on the said declaration were false or inaccurate at the time of issuance of such declaration or have become false or inaccurate at any time after such issuance, such person shall forthwith notify the Authority in writing of such fact and shall desist from performing or, as the case may be, from continuing to perform the said licensable activity on the basis of the exemption granted under article 2 of this directive and without a licence in terms of article 7(1) of the Act, and he shall no longer be entitled to rely on the said exemption as provided above in this article 3 as from the moment that he becomes so aware or ought to become so aware as aforesaid.

4. If the first National Lottery licensee issues a declaration as referred to in article 3 of this directive to any person and at any time before or during the performance of the licensable activity to which it relates the said licensee becomes aware that, or becomes aware of any circumstances which give him or ought to give him reasonable cause to believe that, the facts stated on the said declaration have become false or inaccurate at any time after such issuance, then the first National Lottery licensee shall forthwith notify the person to

whom such declaration was issued and the Authority in writing of such fact.

5. The first National Lottery licensee shall not issue any declaration as referred to in article 3 of this directive to any person containing facts which are false or inaccurate at the time of such issuance.

DR. JOSEPH ZAMMIT MAEMPEL LL.D.
Chairman
Lotteries and Gaming Authority.".

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