

L.N. 90 of 2011

**LOTTERIES AND OTHER GAMES ACT
(CAP. 438)**

Remote Gaming (Amendment) Regulations, 2011

IN exercise of the powers conferred by article 78 of the Lotteries and other Games Act, the Minister of Finance, the Economy and Investment, after consultation with the Lotteries and Gaming Authority, has made the following regulations:-

1. (1) The title of these regulations is the Remote Gaming (Amendment) Regulations, 2011, and these regulations shall be read and construed as one with the Remote Gaming Regulations, hereinafter referred to as "the principal regulations".

Citation and
commencement.
S.L. 438.04

(2) These regulations shall be deemed to have come into force as follows:

(a) regulations 6 and 9 hereof on the 1st January, 2008;
and

(b) all other remaining regulations on the 1st March, 2011.

2. In regulation 2 of the principal regulations, the definition "game of chance" shall be deleted.

Amends
regulation 2 of
the principal
regulations.

3. Regulation 3 of the principal regulations shall be amended as follows:

Amends
regulation 3 of
the principal
regulations.

(a) for the words "issued by the Authority." there shall be substituted the words "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."; and

(b) for the words "against the Act." there shall be substituted the words "against the Act:", and immediately thereafter there shall be added the following provisos:

"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."

Substitutes
regulation 6 of
the principal
regulations.

4. For regulation 6 of the principal regulations there shall be substituted the following:

"Fees.

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."

Amends
regulation 11 of
the principal
regulations.

5. In paragraph (e) of sub-regulation (4) of regulation 11 of the principal regulations, immediately after the words "remote gaming operation" there shall be added the words "or a commission".

Amends
regulation 13 of
the principal
regulations.

6. In paragraph (b) of sub-regulation (2) of regulation 13 of the principal regulations the words "or remote gaming tax" shall be deleted.

Substitutes
regulation 57 of
the principal
regulations.

7. For regulation 57 of the principal regulations there shall be substituted the following:

"Gaming
tax.

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

8. In paragraph (b) of the First Schedule to the principal regulations, the words "or an online betting exchange office licence" shall be deleted.

Amends the First Schedule to the principal regulations.

9. For the Second Schedule to the principal regulations, there shall be substituted the following:

Substitutes the Second Schedule to the principal regulations.

"Second Schedule

Regulation 6

Application and Licence Fees

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."

Substitutes the Fourth Schedule to the principal regulations.

10. For the Fourth Schedule to the principal regulations there shall be substituted the following:

"Fourth Schedule

Regulation 57

Taxation

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."

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