

Malta Gaming Law: What's New?

JUSTINE XUEREB

This article will shed light on the new Gaming Act, as well as recent amendments to it.

Justine Xuereb is currently a third-year student at the University of Malta, reading for the Bachelor of Laws.

TAGS: Gaming, Sandbox, Malta Gaming Act, Malta Gaming Authority

The Maltese Gaming Act is a relatively new piece of legislation, having come into force on the 1st of July of this year for remote gaming operators, with land-based operators following suit on the 1st of January 2019.

Under this new Act, the Malta Gaming Authority (the 'MGA') will be able to approach different kinds of games in several ways, taking into consideration their integrity and risk presented to consumers. This reflects the supervision and risk-based regulation themes which are seen in the Act's regulatory proposals. One may also notice a change in the way specific sectors are handled by the public administration, with a more accepting approach towards technology convergence across a variety of gaming distributors being utilised.

Pertaining licencing procedures, this new regime introduces business-to-customer (B2C) and business-to-business (B2B) licences, simplifying proceedings and encouraging faster growth in the sector. B2C licences will differ in accordance with the type of game in question, there will be no need for a new licence to be drawn up per game class. On the contrary, this licence allows a B2C licensee to continue adding game types without enduring added licencing procedures. Regarding the classification of games under game types, this has been made much clearer than the previous Remote Gaming Regulations. It also allows for more unorthodox games to be included within their broadened definitions.

A licence issued by the Malta Gaming Authority may now be valid for a minimum of 5 and a maximum of 10 years, with this extended validity period providing more long-term stability to licensees.

Moreover, the new Act has seen the introduction of new licencing fees. It states that a fixed annual fee of €25,000, together with a compliance contribution fee, will be added to a fixed fee which varies according to the generated gaming revenue. Additionally, one may note that this new licencing regime is made more attractive through the introduction of a cap on the variable licence fee. Additionally, the Malta Gaming Authority is now able to provide a variety of different authorisations, such as approvals, permits and certificates. Whilst there are currently no guidelines on how this is to be done, the consultation document published in 2017 indicates that a different regime for promotional games will be included. This is in recognition of the fact that these gaming services are usually a secondary sort of objective, and accepting that a primary goal is generally separate from the provision of gaming services.

Crucially, the Malta Gaming Authority has recently launched its

Sandbox Framework pertaining the use of Virtual Financial Assets (VFAs) and Virtual Tokens, along with that of Innovative Technology Arrangements (ITAs) within the ever-growing industry. As of the 1st January 2019, VFAs and virtual tokens (also referred to as DLT assets) will be accepted by the Authority as a means of payment, with a secondary phase seeing the Sandbox Framework extending its applications to accommodate the use of ITAs within important technical equipment employed by licensees, running parallel to the Malta Digital Innovation Authority's (MDIA) recent developments.

During the Delta Summit which took place earlier this month, Heathcliff Farrugia, MGA's CEO, encouraged this development and implied potential improvements in the future, stating that the Framework is intended to be viewed as a "live document" being subject to updates subject to potential feedback being received. The predicted lifespan of this Framework runs up to October of next year, although its extension has by no means been excluded.

Important amendments to the prior Gaming Act have seen improvements to standards of consumer protection, more responsible gaming measures, and the facilitation of the reporting of suspicious betting transactions. As such, the holding and management of player funds is now provided for by law. Should a third party be entrusted with a player's funds and any duties related to them, such party will be held liable for any losses incurred by the players through their acts, whilst also being responsible for the funds' use. In addition, the MGA a unified self-exclusion system for remote gaming operators and its implementation are being discussed by the MGA, with it having already been introduced for their land-based counterparts.

To date, this Gaming Act has been received positively by the gaming community, which is not surprising as it includes a more stable licencing period, fewer licensing systems, and also provides for cryptocurrencies. As such, this piece of legislation is a perfect example of the legislator's wish to focus on both the supplier's and consumer's needs, whilst also encouraging practicality and transparency.