

## Translation of Liechtenstein Law

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**Gambling Act**  
of 30 June 2010

I hereby grant My consent to the following resolution adopted by Parliament:<sup>1</sup>

**I. General provisions**

## Article 1

*Object and scope of application*

1) This Act governs commercially or publicly operated games of chance or skill involving money or other payment in kind, especially:

- a) the approval and operation of casinos and the approval and organisation of lotteries, wagers, gambling games of skill, and online gambling games;
- b) the levy of a gambling tax.

2) This Act shall not apply to non-commercially operated or organised gambling in private, unless a participant in the game plays online or uses a gambling machine or acts as a banker and makes financial resources available for the operation or organisation of the gambling game.

3) The provisions of the Unfair Competition Act shall apply to sweepstakes and the like for the purpose of promoting sales.

4) This Act shall not affect the provisions applicable in Liechtenstein pursuant to the Customs Treaty relating to treaty arrangements based

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<sup>1</sup> Report and Motion of the Government No. 3/2010, Statement of the Government No. 77/2010

thereon between the Government and foreign providers of lotteries, wagers, and online gambling games.

## Article 2

### *Purpose*

- 1) The purpose of this Act shall be:
  - a) to ensure secure, proper, and transparent gaming operations;
  - b) to prevent money laundering, organised crime, and terrorist financing by providers of gambling games, their customers, or third parties connected with the gaming operations;
  - c) to prevent socially harmful effects of the gaming operations.
- 2) Within the framework of the purposes set out in paragraph 1, this Act aims to generate revenue for the State and to promote public-benefit and charitable purposes.

## Article 3

### *Definitions and terminology*

- 1) For purposes of this Act:
  - a) "payout ratio" means the average ratio of paid-out winnings to bets;
  - b) Repealed<sup>2</sup>
  - c) "gross gambling revenue" means:
    1. the difference between the bets and the lawfully paid-out winnings;
    2. the commission for gambling games, in particular droits de table, rakes, and similar inducements paid by the players;
    3. the surplus between the registration fees and the prizes paid out at gaming tournaments;
  - d) "bookmaker wager" means a wager in which the organiser determines the winning and losing ratios as a factor of the bets and guarantees winnings, thus betting against the players;
  - e) "bet" means a deposit by a player for the purpose of taking part in a gambling game;

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<sup>2</sup> Article 3(1)(b) repealed by LGBl. 2016 No. 198.

- f) "gambling game" means a game offering the prospect of winnings in return for placement of a bet;
- g) "gambling machine" means an electronically, electromechanically, or mechanically controlled device, including game consoles and the like, which accepts money or other payment in kind and can be used for a gambling game;
- h) "public-benefit" means an activity which, without the intent of generating earnings and in an altruistic manner, is performed for the benefit of an indeterminate number of persons, especially in the fields of culture, social assistance, sport, tourism, or the protection of nature and heritage as well as the protection, preservation, and maintenance of cultural goods within the meaning of the Cultural Goods Act;<sup>3</sup>
- i) "gambling game of skill" means a gambling game in which the winnings for the average player depend entirely or predominantly on the skill of the player; gambling games typically organised in casinos, such as poker, blackjack, and the like as well as lotteries typically organised by lottery companies and sports wagers shall not be considered gambling games of skill;
- k) "winnings" means monetary winnings or other pecuniary advantage;
- l) "game of chance" means a gambling game in which the winnings for the average player depend entirely or predominantly on chance;
- m) "minor organiser" means a person who:
  - 1. organises lotteries generating bets of less than 100 000 Swiss francs per year;
  - 2. organises lotteries whose net earnings are used in full for public-benefit or charitable purposes and whose winnings are to a substantial extent made available free of charge by members or donors. The operating costs must be reasonably proportionate to the resources generated for public-benefit or charitable purposes; or<sup>4</sup>
  - 3. operates not more than two online terminals for scanning tickets for participation in permitted lotteries and wagers;
- n) "lottery" means a game of chance:
  - 1. which takes place outside of casinos and without the use of gambling machines;
  - 2. in which all winnings are generated from the bets via a drawing or a series of drawings on the basis of a predefined plan;

<sup>3</sup> Article 3(1)(h) amended by LGBl. 2016 No. 279.

<sup>4</sup> Article 3(1)(m)(2) amended by LGBl. 2016 No. 198.

3. which is concluded within a predefined time period;
  4. whose payout ratio is at most 75%; and
  5. in which the winnings are in any event divided in such a way that the bets or winnings of a player influence or can influence the amount of the winnings or the probability of winning of other players;
- o) "online gambling game" means a gambling game offered via means of electronic communication, especially the internet, telephone, television, radio, or other electronic media;
  - p) "odds wager" means a bookmaker wager in which the organiser repeatedly redetermines the odds of winning and losing over the course of the game;
  - q) "casino" means an undertaking which, on a commercial basis, offers the opportunity for gambling, especially at game tables, gambling machines, or similar gaming equipment;
  - r) "game brokering" means the brokering of game contracts between the player and the operator of a lottery or wager, also when players are brought together into a game syndicate;
  - s) "raffle" means a lottery with commodity winnings, where such a lottery is carried out at an entertainment event and in which the issuing of the tickets, the drawing, and the payout of the winnings are immediately connected to the entertainment event;
  - t) "parimutuel wager" means a wager in which the participants bet against each other and the totality of the bets is distributed among the winners on the basis of variable quotas after deductions ("take out");
  - u) "commodity winnings" means a pecuniary advantage in a form other than money;
  - v) "wager" means a game of chance in which the winnings depend on the accuracy of a prediction concerning the outcome or occurrence of an event;
  - w) "charitable" means an activity which improves the material situation of a certain number of persons in need.

2) The terms used in this Act to denote persons, professions, and functions include persons of male and female gender alike.

Article 4<sup>5</sup>*Permissibility of gambling games*

Gambling games may be carried out on a commercial or public basis only to the extent that the required authorisation has been granted or the gambling game is not subject to an authorisation by law. It is not permitted to set up or operate gambling machines outside licensed casinos.

## Article 5

*Delineation between types of games*

By ordinance, the Government may set out provisions governing the delineation between various types of games, in particular between:

- a) commercial and non-commercial gambling games;
- b) games of chance and games of skill.

## Article 6

*Technical gaming requirements*

1) By ordinance, the Government shall issue technical gaming requirements for gambling games and systems.

2) In particular, it shall provide for a review, a conformity assessment, or an authorisation for the purpose of operation, it shall set out the procedure, and, where necessary, it shall determine the maximum bets for gambling games. It shall take account of international custom in this regard.

## Article 7

*Offer of gambling games abroad*

1) Providers of gambling games approved under this Act may offer gambling games abroad only to the extent that this does not interfere with legal peace in relation with foreign countries.

2) By ordinance, the Government shall provide details concerning the requirements for preserving legal peace in relation with foreign countries.

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<sup>5</sup> Article 4 amended by LGBl. 2016 No. 198.

## II. Casinos

### A. Licences<sup>6</sup>

#### Article 8<sup>7</sup>

##### *Licensing requirement*

Anyone intending to operate a casino shall require a licence issued by the Office of Economic Affairs.

#### Article 9

##### *Licensing conditions<sup>8</sup>*

A casino licence may be granted only if:<sup>9</sup>

- a) the applicant has a legal form and a registered office in accordance with Article 9a;<sup>10</sup>
- b) the applicant, the main business partners, and the shareholders as well as the beneficial owners thereof have sufficient own funds and are of good repute and offer a guarantee of sound and proper business conduct;
- c) the applicant and the shareholders as well as, when requested by the Government, the main business partners have provided evidence of the lawful origin of the available financial resources;
- d) the applicant guarantees the external independence of the general management, the transparency and monitoring of gaming operations and the money flows, and the necessary expertise by means of articles of association, organisation, contractual agreements, and internal rules and quality management systems;
- d<sup>bis</sup>) the applicant appoints a general management in accordance with Article 9c;<sup>11</sup>

<sup>6</sup> Heading preceding Article 8 amended by LGBl. 2016 No. 198.

<sup>7</sup> Article 8 amended by LGBl. 2016 No. 198.

<sup>8</sup> Article 9 heading amended by LGBl. 2016 No. 198.

<sup>9</sup> Article 9 introductory phrase amended by LGBl. 2016 No. 198.

<sup>10</sup> Article 9a amended by LGBl. 2016 No. 198.

<sup>11</sup> Article 9(d<sup>bis</sup>) inserted by LGBl. 2016 No. 198.

- e) the applicant presents a security, due diligence, and social concept in accordance with Articles 10 to 12;<sup>12</sup>
- f) the applicant presents a business plan;<sup>13</sup>
- g) the applicant explains measures for creating the preconditions for proper assessment of the gambling tax;
- h) the applicant – to the extent the applicant is part of a foreign group operating in the gambling business – is subject to consolidated supervision abroad that is comparable to Liechtenstein supervision;
- i) Repealed<sup>14</sup>
- k) the applicant has a suitable place of business in Liechtenstein.

#### Article 9a<sup>15</sup>

##### *Legal form and registered office*

1) The casino must be operated in the legal form of a public limited company or European Company. The Office of Economic Affairs may permit exceptions in justified cases.

2) The registered office of the company must be in Liechtenstein or, following paragraph 3, in another Member State of the European Economic Area (EEA Member State).

3) In the country where its registered office is situated, the foreign company must hold a comparable casino licence or concession and must be subject to comparable public gambling supervision, which transmits supervision information to the supervisory bodies set out in this Act as needed and carries out supervision measures on site (official chain of supervision). If evidence is provided that these conditions are met, the licence may be exercised by way of a branch in Liechtenstein. Any resolutions by governing bodies of the foreign company must be reported without delay to the Office of Economic Affairs to the extent they also affect the general management of the Liechtenstein branch. Moreover, the general management and accounting must be separate for all domestic operations.

<sup>12</sup> Article 9(e) amended by LGBl. 2016 No. 198.

<sup>13</sup> Article 9(f) amended by LGBl. 2016 No. 198.

<sup>14</sup> Article 9(i) repealed by LGBl. 2016 No. 198.

<sup>15</sup> Article 9a inserted by LGBl. 2016 No. 198.



Article 9b<sup>16</sup>*Own funds*

1) The company operating a casino must have paid-up share capital in the amount of at least 5 million Swiss francs, the lawful origin of which must be demonstrated in an appropriate way and which is freely available to the general management without restrictions and demonstrably for gaming operations in Liechtenstein, and such share capital must not have been diminished by balance sheet losses at the time of the licence application (liability stock).

2) The capital must amount to at least 30% of the balance sheet or 20% of the general gross gambling revenue from the time the licence is granted. The higher of these two values shall be determinative.

3) The Office of Economic Affairs may demand a higher capital ratio if special operational risks or other special circumstances exist.

Article 9c<sup>17</sup>*General management*

The general managers responsible for operations must:

- a) in fact work in a leadership capacity at the casino and in fact have a workload at the place of business commensurate with the operational requirements. When reviewing this condition, the extent of operational and other responsibilities as well as the place of residence of the general managers shall be taken into account;
- b) have autonomous powers of control within the casino. This includes signing powers entered in the Commercial Register and comprehensive powers of instruction;
- c) be a member of the governing body of the legal persons endowed with powers of representation under law or be an employee with a permanent employment relationship; and
- d) be a citizen of an EEA Member State or Switzerland or, as a citizen of a third country, have uninterrupted residence in Liechtenstein of at least 12 years and maintain such residence on a permanent basis.

<sup>16</sup> Article 9b inserted by LGBl. 2016 No. 198.

<sup>17</sup> Article 9c inserted by LGBl. 2016 No. 198.

## Article 10

*Security concept*

1) The security concept must lay out the measures with which the casino aims to ensure the secure, proper, and transparent organisation of games. In particular, the concept must demonstrate:

- a) which risk management and control systems are effectively maintained;
- b) how unauthorised gambling and unauthorised access to assets as well as to management, monitoring, and control systems are prevented;
- c) how orderly gaming operations and money flows are ensured;
- d) how the players' deposits are protected;
- e) how disputes between players and the casino are settled;
- f) how the information technology systems are secured;
- g) how impermissible conduct and incidents can be identified in a timely manner and how occurrences in the casino premises with higher security requirements are monitored.

2) By ordinance, the Government shall provide details concerning the requirements on the security concept.

## Article 11

*Due diligence concept*

1) The security concept must lay out the measures with which the casino aims to ensure that the obligations under due diligence legislation are complied with. In particular, the concept must demonstrate:

- a) the implementation of internal directives governing all due diligence obligations and related obligations of the casino;
- b) the rules governing internal organisation and controls;
- c) the documentation and further organisational measures;
- d) the provisions ensuring training;
- e) the assignment of a mandate to the external auditors;
- f) the provisions ensuring reporting to the Office of Economic Affairs and the Financial Market Authority (FMA).

2) By ordinance, the Government shall provide details concerning the requirements on the due diligence concept, after hearing the FMA.

## Article 12

*Social concept*

1) The social concept must set out the measures with which the casino aims to prevent or remedy the socially harmful effects of gambling, especially in regard to:

- a) prevention of gambling addiction, for which the casino must warn players of the risks of gambling and indicate where help is available and must give them the option to suspend or restrict their own participation in the game;
- b) early identification of players at risk of gambling addiction;
- c) basic and regular continuing training of the staff entrusted with implementation of the social concept;
- d) gathering of data concerning gambling addiction;
- e) enforcement of gambling suspensions and restrictions;
- f) cooperation with specialised offices, other domestic and foreign gambling providers, or third parties, subject to the Data Protection Act.

2) By ordinance, the Government shall provide details concerning the requirements on the social concept.

## Article 13

*Submission and review of applications<sup>18</sup>*

1) Licence applications must be submitted to the Office of Economic Affairs. The application must be accompanied by the documents required as evidence for the licensing conditions set out in Articles 9 to 12 and the relevant information.<sup>19</sup>

2) The Office of Economic Affairs shall review the application and, where necessary, request improvements or additional documents from the applicant and set a deadline in that regard.

3) The Office of Economic Affairs shall transmit the due diligence concept to the FMA for review.<sup>20</sup>

<sup>18</sup> Article 13 heading amended by LGBl. 2016 No. 198.

<sup>19</sup> Article 13(1) amended by LGBl. 2016 No. 198.

<sup>20</sup> Article 13(3) amended by LGBl. 2016 No. 198.

4) The applicant is required to notify the Office of Economic Affairs without delay of all significant changes to the information and documents submitted over the course of the procedure.

5) Repealed<sup>21</sup>

6) By ordinance, the Government shall provide details governing the procedure.

#### Article 14<sup>22</sup>

##### *Grant and scope of the licence*

1) The Office of Economic Affairs shall grant a casino licence to the applicants meeting the conditions set out in Articles 9 to 12.

2) The licence may be granted subject to terms and conditions.

#### Article 15<sup>23</sup>

##### *Prohibition of transfer*

The licence shall be personal and non-transferable. Any legal transactions disregarding or circumventing this prohibition shall be void.

#### Article 16

##### *Notification requirement*

The licence holder shall notify to the Office of Economic Affairs:<sup>24</sup>

- a) without delay, but at the latest within four weeks, all significant changes to the licensing conditions, including any of the following initiated or carried out against the licence holder, its governing bodies, shareholders, or beneficial owners of shares, in Liechtenstein or abroad:<sup>25</sup>
1. criminal proceedings and criminal judgments;
  2. bankruptcy proceedings;

<sup>21</sup> Article 13(5) repealed by LGBl. 2016 No. 198.

<sup>22</sup> Article 14 amended by LGBl. 2016 No. 198.

<sup>23</sup> Article 15 amended by LGBl. 2016 No. 198.

<sup>24</sup> Article 16 introductory phrase amended by LGBl. 2016 No. 198.

<sup>25</sup> Article 16(a) introductory phrase amended by LGBl. 2016 No. 198.

3. proceedings concerning the withdrawal or suspension of licenses or concessions;
  4. disciplinary proceedings and decisions;<sup>26</sup>
- b) in a timely manner before become legally effective:
1. transfers of shares leading to a concentration of more than 5% of the capital or votes in the same hands;
  2. increases or reductions of share capital;
  3. agreements with important business partners.

#### Article 16a<sup>27</sup>

##### *Expiry of licence*

- 1) The licence shall expire if:
  - a) it is renounced in writing;
  - b) bankruptcy proceedings have been initiated with legal effect; or
  - c) the casino is removed from the Commercial Register.
- 2) The expiry of the licence shall be published in the Official Journal. The Government may provide details by ordinance.

#### Article 17<sup>28</sup>

##### *Withdrawal, restriction, and suspension of licence*

- 1) The Office of Economic Affairs shall withdraw the licence if significant conditions for granting it no longer are met or if the licence holder:
  - a) obtained the licence with incomplete or incorrect information;
  - b) does not take up operations within two years;
  - c) suspends operations for an extended period of time, unless the licence holder is prevented from carrying out operations due to circumstances that are not the licence holder's responsibility.

<sup>26</sup> Article 16(a)(4) inserted by LGBl. 2016 No. 198.

<sup>27</sup> Article 16a inserted by LGBl. 2016 No. 198.

<sup>28</sup> Article 17 amended by LGBl. 2016 No. 198.

2) The Office of Economic Affairs shall likewise withdraw the licence if the licence holder or one of the persons entrusted with general management:

- a) gravely or repeatedly violates this Act, the Due Diligence Act, the implementing ordinances, terms and conditions of the licence, or orders of the supervisory authority;
- b) uses the licence for unlawful purposes.

3) In minor cases, the Office of Economic Affairs may suspend or restrict the licence or impose additional terms and conditions.

4) Withdrawal, restriction, and suspension of the licence shall have the same effect on the approval of individual games, systems, and the like.

5) Withdrawal, restriction, and suspension of the licence shall be published in the Official Journal after becoming legally effective.

6) The Government may provide details by ordinance concerning withdrawal, restriction, and suspension of the licence, especially publication in the Official Journal.

#### Article 17a<sup>29</sup>

##### *Dissolution and liquidation after loss of licence*

1) Expiry and withdrawal of the licence shall entail dissolution and liquidation of the casino.

2) The Office of Economic Affairs shall inform the Office of Justice of the legally effective loss of the licence. The Office of Justice shall enter the liquidation in the Commercial Register and, on the proposal of the Office of Economic Affairs, shall appoint a liquidator in accordance with Article 133 of the Law on Persons and Companies (PGR). The provision set out in Article 133(6) PGR shall apply if the Government agrees to the assumption of costs.

3) The costs of dissolution and liquidation shall be at the expense of the casino.

4) The dissolution and liquidation of the casino shall be performed in accordance with Articles 133 et seq. PGR.

5) The Office of Justice may require that the liquidator prepare a liquidation report.

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<sup>29</sup> Article 17a inserted by LGBl. 2016 No. 198.

## B. Games offered

### Article 18

#### *Table games*

1) Casinos may operate an unlimited number of table games and game tables.

2) By ordinance, the Government shall set out:

- a) what kinds of table games the casinos may offer;
- b) how the casino must define the maximum bets for table games in its game rules, depending on the winning options;
- c) the obligation of the casino to issue game rules subject to approval for the table games it offers;
- d) the documentation and notification requirements in connection with the operation of table games.

3) By ordinance, the Government may provide appropriate operating requirements relating to table games.

4) Only chips or gaming tokens of the respective casino may be used for the table games.

### Article 19

#### *Gambling machines and jackpots*

1) Subject to paragraph 3, casinos may operate an unlimited number of gambling machines and jackpots.

2) By ordinance, the Government shall set out:

- a) the obligation of the casino to issue game rules subject to approval for the gambling machines and jackpots it operates;
- b) the obligations of the casino to guarantee jackpot winnings;
- c) the documentation and notification requirements in connection with the operation of gambling machines and jackpots;
- d) the modalities for operating downloadable games, system-based games, and the like.

3) By ordinance, the Government may define an appropriate ratio of gambling machines to game tables.

4) The Office of Economic Affairs may limit the maximum winnings of jackpots, provided the liquid assets of the casino make this appear necessary.

5) Only the following may be used to play at gambling machines or jackpots:

- a) cash; or
- b) chips or electronic carrier media of the respective casino.

#### Article 20

##### *Gaming tournaments*

- 1) Casinos may organise gaming tournaments.
- 2) By ordinance, the Government shall set out:
  - a) the obligation of the casino to issue tournament rules subject to approval for the gaming tournaments they organise;
  - b) the gambling games permitted for the organisation of gaming tournaments;
  - c) further modalities for organising gaming tournaments.

### **C. Gaming operations**

#### Article 21

##### *Special approvals and licences*

1) Contracts with which casinos delegate game-relevant tasks to third parties must be approved in advance by the Office of Economic Affairs in order to be valid. Core responsibilities of the gaming operations may not be delegated.

2) By ordinance, the Government may provide for special licences in regard to:

- a) suppliers of game devices and game-relevant software;
- b) technical equipment including electronic accounting and control systems.

3) The Government shall provide details by ordinance, especially the licensing conditions, the competences, and the procedure.



## Article 22

*Gambling ban*

1) The following persons shall be subject to a general gambling ban:

- a) persons under the age of 18;
- b) persons who are suspended from gambling (Article 23);
- c) members of the governing bodies and the employees of the supervisory authorities and the external auditors entrusted with responsibilities relating to supervision of gambling in Liechtenstein, as well as members of the Expert Advisory Council;
- d) persons against whom coercive measures have been imposed under the International Sanctions Act.

2) The following persons shall be prohibited from gambling at the casino with which they are affiliated:

- a) members of the governing bodies and employees of the casino;
- b) shareholders with more than 5% of the share capital of the casino;
- c) members of the governing bodies of undertakings manufacturing or trading in gaming equipment.

3) Each casino shall maintain an electronic register in which the gambling bans set out in paragraph 1(b) to (d) and paragraph 2(a) and (b) shall be entered; the entry must in particular contain the surname, first name, date of birth, and address of the person concerned, the type, issuing date, reason, and lifting of the gambling ban, as well as other data necessary for implementation of the social concept set out in Article 12. The Government shall provide details by ordinance concerning maintenance of the register.<sup>30</sup>

4) The casino is required to notify the imposition or lifting of a gambling ban as referred to in paragraph 1(b) to all other casinos and organisers of online gambling games without delay. The notification must include the information referred to in paragraph 3, and such information must be entered in the registers maintained by the other casinos and organisers of online gambling games.<sup>31</sup>

<sup>30</sup> Article 22(3) amended by LGBl. 2016 No. 198.

<sup>31</sup> Article 22(4) inserted by LGBl. 2016 No. 198.

## Article 23

*Gambling suspension*

1) The casino shall suspend gambling by persons of whom they know or should know, on the basis of their own cognition or notifications by third parties, that they:

- a) are overindebted or fail to meet their financial obligations;
- b) risk gambling bets that are disproportionate to their income and assets;
- c) interfere with orderly gaming operations.

2) The suspension must be communicated and justified in writing to the person concerned.

3) The suspension must be lifted as soon as the reason therefor no longer applies.

4) The players may themselves request a gambling suspension from the casino.

## Article 24

*Entry and participation restrictions*

The casino may:

- a) refuse entry or participation in gambling games to a person without giving reasons;
- b) charge admission;
- c) issue a dress code.

## Article 25

*Identification and verification of identity*

1) The casino shall verify the identity of persons before granting them entry. The following shall be considered proof of identity:

- a) any probative official identity document with a photograph that permits entry to the Principality of Liechtenstein;
- b) other official identity documents with a photograph specified by the Office of Economic Affairs that are written in Latin script and contain the surname, first name, date of birth, and citizenship; or

c) customer cards of the casino approved by the Office of Economic Affairs.

2) The casino shall identify the players in accordance with the Due Diligence Act either upon admission to the casino or upon reaching the thresholds.<sup>32</sup>

#### Article 26<sup>33</sup>

##### *Processing and disclosure of personal data<sup>34</sup>*

1) To the extent necessary for performance of its responsibilities under this Act, the casino may process or have processed personal data, including processing of:<sup>35</sup>

- a) biometric data uniquely identifying a person;
- b) health data, but only to the extent it is limited to gambling and betting addiction;
- c) personal data on criminal convictions and offences.

2) Disclosure of the data referred to in paragraph 1 is permissible:<sup>36</sup>

- a) if the person concerned consents in writing in advance;
- b) if expressly provided by law;
- c) if the data is necessary for the enforcement authorities and external auditors to perform their responsibilities delegated under this Act and the Due Diligence Act;
- d) if the data is necessary for other authorities and bodies to perform a responsibility delegated by law;
- e) in a case referred to in Article 22(3) or (4) or Article 83; or
- f) where necessary for the fulfilment of disclosure obligations under this Act.

3) The casino shall issue rules concerning the processing and disclosure of data referred to in paragraphs 1 and 2.<sup>37</sup>

<sup>32</sup> Article 25(2) amended by LGBl. 2016 No. 198.

<sup>33</sup> Article 26 amended by LGBl. 2016 No. 198.

<sup>34</sup> Article 26 heading amended by LGBl. 2018 No. 287.

<sup>35</sup> Article 26(1) amended by LGBl. 2018 No. 287.

<sup>36</sup> Article 26(2) introductory phrase amended by LGBl. 2018 No. 287.

<sup>37</sup> Article 26(3) amended by LGBl. 2018 No. 287.

4) The casino must take appropriate measures to ensure that the principles governing the processing of personal data under data protection legislation are complied with in particular.<sup>38</sup>

5) By ordinance, the Government shall set out further provisions governing the processing and disclosure of data referred to in paragraphs 1 and 2 by the casino.<sup>39</sup>

6) The provisions of the Data Protection Act shall apply to the retention and archiving of data.<sup>40</sup>

#### Article 27

##### *Quality management, accounting, control, and video surveillance systems<sup>41</sup>*

1) The casino shall maintain an effective quality management system (QMS) that corresponds to the type and scope of its activities. The QMS shall also encompass data processing as well as risk management, with rules provided for the competence and procedures relating to especially risky transactions that might endanger the liquidity and reputation of the casino.<sup>42</sup>

2) The casino shall operate an electronic accounting and control system (EACS) for all electronically operated gambling games.

3) The casino shall maintain a video surveillance system which gathers and records the occurrences especially in the following parts of the casino:<sup>43</sup>

- a) in the entry area;
- b) in the gaming halls;
- c) at the cash desks;
- d) in rooms with movements of money or other assets including game paraphernalia;
- e) in rooms with EACS; and
- f) in rooms with jackpot controllers.

<sup>38</sup> Article 26(4) amended by LGBl. 2018 No. 287.

<sup>39</sup> Article 26(5) amended by LGBl. 2018 No. 287.

<sup>40</sup> Article 26(6) inserted by LGBl. 2018 No. 287.

<sup>41</sup> Article 27 heading amended by LGBl. 2018 No. 287.

<sup>42</sup> Article 27(1) amended by LGBl. 2018 No. 287.

<sup>43</sup> Article 27(3) introductory phrase amended by LGBl. 2018 No. 287.

4) The video surveillance system is not subject to the notification obligation under Article 5(7) of the Data Protection Act.<sup>44</sup>

5) The Government shall set out the requirements on the systems by ordinance.

#### Article 28

##### *Game rules and manuals*

1) The casino shall issue game rules and manuals for the gambling games it offers and shall submit them for approval to the Office of Economic Affairs.

2) The casino shall ensure that players are informed in an appropriate form about the game rules and the conditions for participating in the games.

3) The Government shall set out the requirements on the game rules and manuals as well as the information for players by ordinance.

#### Article 29

##### *Loans and advances*

1) The casino may not grant players either loans or advances.

2) The casino shall ensure that third parties shall not grant players loans or advances on a commercial basis on their premises, including the external areas belonging to the casino.

#### Article 30

##### *Means of payment and financial transactions*

1) Credit and debit cards may be accepted. The casino shall document the transaction.

2) The casino may neither accept nor issue bearer cheques.

3) The casino may accept cheques made out by the originator to the casino. Upon accepting the cheque, the casino must confirm the identity

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<sup>44</sup> Article 27(4) amended by LGBl. 2018 No. 287.

of the person making out the cheque. The casino shall register the transaction.

4) After hearing the FMA, the Government shall by ordinance set out the amount above which payouts and repayments must be made by non-negotiable cheques or bank transfer.

5) The casino may keep bets, chips, and game winnings in the form of a custody account at the disposal of the players. It may neither pay interest on the account balance nor actively manage it. By ordinance, the Government shall set out further requirements after hearing the FMA.

#### Article 31

##### *Certification of winnings*

1) The casino shall not certify any game winnings.

2) After hearing the FMA, the Government may by ordinance provide for exceptions, to the extent compatible with the purpose of the Due Diligence Act.

#### Article 32

##### *Gratuities*

1) Gratuities intended for a group of employees defined by the casino shall be deposited in a special container (tronc) for that purpose and recorded and documented with a special statement of accounts. They shall not be considered part of the gross gambling revenue. The casino shall set out the distribution of the tronc in a set of rules.

2) Individual tips and inducements of other kinds may be accepted only by employees rendering personal services, especially the restaurant or cloakroom staff.

#### Article 33<sup>45</sup>

##### *Advertisement and customer card*

1) A casino may not advertise in an intrusive or misleading manner. The casino must be named in the advertisement.

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<sup>45</sup> Article 33 heading amended by LGBI. 2016 No. 198.

2) After informing and obtaining the consent of the casino visitor in advance, the casino may, for the purpose of creating a customer card and for marketing purposes, process the following data in particular:<sup>46 47</sup>

- a) surname, first name, date of birth, profession, and address;
- b) type and number of official identity document;
- c) date, time, and duration of visit or participation in games;
- d) games used, bets, and game winnings.

#### Article 34

##### *Documentation requirement*

1) The casino shall document the ongoing business relationships with players and the settlement of occasional transactions involving players in an appropriate and traceable manner.<sup>48</sup>

2) After hearing the FMA, the Government shall by ordinance set out the additional documentation requirements.

#### Article 35<sup>49</sup>

##### *Confidentiality*

1) The members of the governing bodies and the employees of a casino must, without any limitation of time, maintain confidentiality with respect to facts that are entrusted to them, made accessible to them, or transmitted due to the participation of players in gambling games or from other operators of gambling games, as well as with respect to observations they have made during their activities or that have been disclosed to them.

2) This article is subject to the legal provisions governing the obligation to testify or provide information vis-à-vis criminal courts and supervisory bodies as well as the permissible disclosure of data under this Act.

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<sup>46</sup> Article 33(2) inserted by LGBl. 2016 No. 198.

<sup>47</sup> Article 33(2) introductory phrase amended by LGBl. 2018 No. 287.

<sup>48</sup> Article 34(1) amended by LGBl. 2016 No. 198.

<sup>49</sup> Article 35 amended by LGBl. 2018 No. 287.

## D. Accounting and auditing

### Article 36

#### *Business report and accounting*

1) Every year within six months of the end of the business year, the casino shall submit a business report to the Office of Economic Affairs and the FMA.

2) The business report shall encompass the annual financial statement including the balance sheet, the income statement, information on equity capital movements, the cash flow statement, and notes. They shall be prepared according to the principles of proper accounting such that a true and fair view of the assets and liabilities, financial position, and profit or loss of the casino can be assessed as reliably as possible.

3) The business report shall also discuss the implementation of the security, due diligence, and social concept.

4) To the extent not provided otherwise, the provisions of the Law on Persons and Companies shall apply to the preparation of the annual financial statement, irrespective of the size of the casino.<sup>50</sup>

5) By ordinance, the Government shall set out how the business report shall be prepared. For the annual financial statement, it may demand application of internationally recognised accounting standards.

### Article 37

#### *External auditors*

1) The casino shall have its business activities audited each year by independent external auditors pursuant to the Auditors Act.<sup>51</sup>

2) The Office of Economic Affairs may order extraordinary audits.

### Article 38

#### *Responsibilities*

1) The external auditors shall audit whether:

<sup>50</sup> Article 36(4) amended by LGBl. 2016 No. 198.

<sup>51</sup> Article 37(1) amended by LGBl. 2019 No. 17.



- a) the business activities and the organisation of the casino comply with the laws, articles of association, and rules;
- b) the conditions for granting the licence are fulfilled on a permanent basis;<sup>52</sup>
- c) the business report meets the requirements as set out by law, the articles of association, and the rules.

2) The external auditors shall summarise the results of the audit in a written audit report and transmit the report simultaneously to the board of directors of the casino, the Office of Economic Affairs, and the FMA.

3) After hearing the FMA, the Government may by ordinance set out more detailed provisions, especially concerning the minimum content of the audit report.

#### Article 39

##### *Duty to provide information*

The casino shall at all times grant the external auditors access to all books and records, including business correspondence and minutes of the board of directors and general management, and it shall provide them with all information required to fulfil the auditing obligation.

#### Article 40

##### *Duty to report*

1) If the external auditors note violations of legal provisions or other irregularities, they shall set an appropriate deadline for the casino to restore a lawful state of affairs. If the deadline is not met, the external auditors shall report to the Office of Economic Affairs and the FMA.

2) The external auditors shall notify the Office of Economic Affairs and the FMA without delay if:

- a) setting a deadline appears to be futile; or
- b) they note that the general management has committed criminal offences or that other serious grievances exist that run counter to the purpose of this Act.

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<sup>52</sup> Article 38(1)(b) amended by LGBI. 2016 No. 198.

3) External auditors that bring facts as referred to in paragraphs 1 and 2 to the attention of the Office of Economic Affairs or the FMA in good faith shall be deemed not to violate any contractual or legal restrictions on the disclosure of information in this regard.

#### Article 41

##### *Costs of the audit*

1) The casino shall bear the costs of the audit. The costs shall be determined in accordance with the fee schedule defined by Government ordinance.

2) Any agreement on bulk compensation or a specific amount of time for the audit shall be prohibited.

### **III. Lotteries and wagers**

#### **A. Licences**

#### Article 42

##### *Basic principles*

1) Anyone intending to organise lotteries or wagers on a commercial or public basis shall require an organiser licence by the Government, subject to paragraph 4 and Article 60. There shall be no legal entitlement to the grant of an organiser licence.

2) Additionally, each game shall require a gaming licence issued by the Office of Economic Affairs.

3) For minor organisers, the Office of Economic Affairs shall grant the organiser licence and the gaming licence by means of a single licence. By ordinance, the Government may provide for a notification requirement instead of a licensing requirement for minor organisers as referred to in Article 3(1)(m)(2) which generate bets of less than 25 000 Swiss francs within a year.

4) Raffles shall be exempt from the licensing requirement.

## Article 43

*Conditions for an organiser licence*

1) An organiser licence may be granted only if:

- a) the applicant, the main business partners, and the shareholders as well as the beneficial owners of the shares have sufficient own funds and are of good repute and offer a guarantee of sound and proper business conduct;
- b) the applicant and the shareholders as well as, when requested by the Government, the main business partners have provided evidence of the lawful origin of the available financial resources;
- c) the applicant guarantees the external independence of the general management, the transparency and monitoring of gaming operations and the money flows, and the necessary expertise by means of articles of association, organisation, contractual agreements, and internal rules and quality management systems;
- d) the applicant presents a security, due diligence, and social concept as referred to in Articles 10 and 12;
- e) the applicant presents the profitability calculations, and these demonstrate credibly that the undertaking is economically viable;
- f) the applicant explains measures for creating the preconditions for proper assessment of the gambling tax;
- g) the applicant – to the extent the applicant is part of a foreign group operating in the gambling business – is subject to consolidated supervision abroad that is comparable to Liechtenstein supervision;
- h) the applicant has a suitable place of business in Liechtenstein.<sup>53</sup>

2) The conditions set out in paragraph 1(d), (e) and (g) shall not apply to minor organisers. By ordinance, the Government may provide further simplifications for minor organisers with respect to the evidence referred to in paragraph 1(a) to (c) and (h).<sup>54</sup>

3) Licences for the organisation of wagers shall be granted only to applicants with a legal form and registered offices in accordance with Article 9a.<sup>55</sup>

<sup>53</sup> Article 43(1)(h) inserted by LGBl. 2016 No. 198.

<sup>54</sup> Article 43(2) amended by LGBl. 2016 No. 198.

<sup>55</sup> Article 43(3) amended by LGBl. 2016 No. 198.

## Article 44

*Conditions for a gaming licence*

1) A gaming licence may be granted only if the lotteries and wagers can be organised in a proper and transparent manner and if the applicant provides information concerning:

- a) the conception and implementation in terms of the technical gaming requirements as well as in organisational and financial terms;
- b) the form, frequency, duration, and area in which the game is organised;
- c) the modalities of the drawing or any other determination of the game-deciding event, the determination of the result, the determination of the winnings, and the payout of the winnings;
- d) the applicable rules in the event of an unforeseen interruption or if the game is not carried out;
- e) the applicable rules if winnings are not claimed; and
- f) the provisions ensuring payout of the winnings.

2) For wagers, the applicant must additionally provide:

- a) in the case of parimutuel wagers: the distribution plan;
- b) in the case of odds wagers and other bookmaker wagers: the method for determining the winning and losing ratios;
- c) in the case of sports wagers: evidence of the legal, organisational, and economic separation between the organiser of the wager and the organiser of the sporting event.

3) By ordinance, the Government may provide further simplifications for minor organisers with respect to the evidence referred to in paragraph 1.

## Article 45

*Licensing requirement for online terminals*

1) Anyone intending to operate online terminals for scanning tickets or for entering quick tips for participating in lotteries or wagers shall require a licence issued by the Office of Economic Affairs.

2) The licence may be granted only if:

- a) it is ensured that online terminals are not misused for online gambling games;

- b) the applicant meets the preconditions as set out in Article 11 of the Business Act.<sup>56</sup>

#### Article 46

##### *Submission and preliminary review of applications*

- 1) Licence applications must be submitted to the Office of Economic Affairs.
- 2) The Office of Economic Affairs shall review the application and, where necessary, request improvements or additional documents from the applicant and set a deadline in that regard.
- 3) The Office of Economic Affairs shall carry out the procedure expeditiously.
- 4) The applicant is required to notify the Office of Economic Affairs without delay of all significant changes to the information and documents submitted over the course of the procedure.
- 5) The Office of Economic Affairs shall recommend to the Government that an organiser licence be granted or denied.
- 6) The Government shall provide details governing the procedure by ordinance.

#### Article 47

##### *Grant of the licence*

- 1) The following shall decide on whether to grant the licence:
  - a) in the case of organiser licences, the Government;
  - b) in the case of gaming licences, licences for minor organisers, and licences for online terminals, the Office of Economic Affairs.
- 2) The licence may set out terms and conditions.
- 3) Repealed<sup>57</sup>

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<sup>56</sup> Article 45(2)(b) amended by LGBl. 2020 No. 422.

<sup>57</sup> Article 47(3) repealed by LGBl. 2016 No. 198.

## Article 48

*Validity and prohibition of transfer*

1) As a rule, organiser licences shall be valid for five years and gaming licences for one year. Where justified by special circumstances, the Government may provide a shorter or longer period.

2) Licences may be extended or renewed. The Government shall provide details by ordinance.

3) Licences shall be non-transferable. Any legal transactions disregarding or circumventing this prohibition shall be void.

## Article 49

*Notification requirement*

1) The licence holder shall notify to the Office of Economic Affairs:

a) without delay, but at the latest within four weeks, all significant changes to the licensing conditions, including any of the following initiated or carried out against the licence holder, its governing bodies, shareholders, or beneficial owners of shares, in Liechtenstein or abroad:

1. criminal proceedings and criminal judgments;
2. bankruptcy proceedings;
3. proceedings concerning the withdrawal or suspension of licences;
4. disciplinary proceedings and decisions;<sup>58</sup>

b) in a timely manner before becoming legally effective:<sup>59</sup>

1. transfers of shares leading to a concentration of more than 5% of the capital or votes in the same hands;
2. increases or reductions of share capital;
3. agreements with important business partners.

2) By ordinance, the Government shall set out special simplifications concerning the notification requirements set out in paragraph 1(b) for minor organisers.

<sup>58</sup> Article 49(1)(a)(4) inserted by LGBL 2016 No. 198.

<sup>59</sup> Article 49(1)(b) introductory phrase amended by LGBL 2016 No. 198.

Article 50<sup>60</sup>*Expiry, withdrawal, restriction, and suspension of licences*

1) Articles 16a, 17, and 17a shall apply *mutatis mutandis* to the expiry, withdrawal, restriction, and suspension of licences.

2) The expiry, withdrawal, restriction, or suspension of the organiser licence shall have the same effect for the gaming licence and for special licences granted to the organiser in accordance with Article 55(1)(a).

**B. Organisation of games**

## Article 51

*Drawing or other determination of the game-deciding event*

1) The drawing of a lottery and any other determination of a game-deciding event must be carried out in a secure and transparent manner and be monitored in person or electronically by an official person or notary or in another equivalent way.

2) The drawing or other determination of the game-deciding event must be documented.

3) The organiser shall submit the documentation to the Office of Economic Affairs upon request.

## Article 52

*Requirements on technical facilities and aids*

1) The technical facilities and aids must be constituted in such a way that the drawing or other determination of the game-deciding event cannot be influenced or manipulated.

2) The Office of Economic Affairs may verify compliance with these requirements or have compliance verified. In the case of computer-assisted drawings or other determination of the game-deciding event, a verification must be conducted.

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<sup>60</sup> Article 50 amended by LGBL 2016 No. 198.

## Article 53

*Raffles*

By ordinance, the Government may specify the maximum bets and winnings, the requirement of advance notification, and other requirements on raffles.

## Article 54

*Prohibition of commercial brokering of games*

Brokering of games on a commercial basis is prohibited.

## Article 55

*Additional rules governing the organisation of games*

1) The following provisions governing the gaming operations of casinos shall apply *mutatis mutandis* to the organisation of lotteries and wagers:

- a) Article 21 (special licences);
- b) Article 22(1) and (2) (gambling ban);
- c) Article 23 (gambling suspension);
- d) Article 24 (entry and participation restrictions);
- e) Article 26 (processing and disclosure of personal data);<sup>61</sup>
- f) Article 27 (quality management, accounting, control, and camera surveillance systems);
- g) Article 28 (game rules and manuals);
- h) Article 29 (loans and advances);
- i) Article 30(1) to (4) (means of payment and financial transactions);
- k) Article 31 (certification of winnings);
- l) Article 33 (advertisement and customer card);<sup>62</sup>
- m) Article 34 (documentation requirement);
- n) Article 35 (confidentiality).

2) By ordinance, the Government may specify simplifications for:

<sup>61</sup> Article 55(1)(e) amended by LGBl. 2018 No. 287.

<sup>62</sup> Article 55(1)(l) amended by LGBl. 2016 No. 198.



- a) lotteries and wagers marketed via the retail trade with respect to the obligations under:
  - 1. Article 22 (gambling ban);
  - 2. Article 23 (gambling suspension);
  - 3. Article 34(1) (documentation requirement);
- b) minor organisers with respect to the obligations under paragraph 1, with the exception of:
  - 1. Article 29 (loans and advances);
  - 2. Article 30 (means of payment and financial transactions);
  - 3. Article 31 (certification of winnings);
  - 4. Article 33 (advertisement and customer card).<sup>63</sup>

### C. Accounting and auditing

#### Article 56

##### *Basic principle*

- 1) To the extent not otherwise provided below, accounting and auditing in relation to lotteries and wagers shall be governed *mutatis mutandis* by Articles 36 to 41, with the exception of the provisions concerning:
  - a) submission of the business report to the FMA (Article 36(1));
  - b) information in the business report on implementation of a due diligence concept (Article 36(3));
  - c) transmission of the audit report to the FMA (Article 38(2));
  - d) duty of the external auditors to report to the FMA (Article 40).
- 2) The organiser must keep separate books for each lottery or wager.

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<sup>63</sup> Article 55(2)(b)(4) amended by LGBl. 2016 No. 198.

## Article 57

*Simplifications for minor organisers*

Alternatively either two months after the conclusion of a lottery or wager or after the annual financial statement and business report of the preceding business year are available, minor organisers shall submit a report to the Office of Economic Affairs. This report shall contain:

- a) a statement of accounts for the game concerned;
- b) information on how the game is played;
- c) information on the use of revenue;
- d) the annual financial statement and the annual report of the preceding business year.

## IV. Gambling games of skill

## Article 58

*Notification requirement*

1) Anyone who organises a gambling game of skill on a commercial or public basis must notify the organisation and modalities of the game to the Office of Economic Affairs in advance, subject to Article 60.

2) The organisation of gambling games of skill shall be permissible if the transparency and monitoring of the gaming operations and the money flows are guaranteed.

## Article 59

*Additional rules governing the organisation of games*

1) Additionally, the following provisions governing the gaming operations of casinos shall apply *mutatis mutandis* to the organisation of gambling games of skill:

- a) Article 24 (entry and participation restrictions);
- b) Article 26 (processing and disclosure of personal data);<sup>64</sup>
- c) Article 28(2) (information for players);

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<sup>64</sup> Article 59(1)(b) amended by LGBl. 2018 No. 287.

- d) Article 29 (loans and advances);
- e) Article 30(1) to (4) (means of payment and financial transactions);
- f) Article 31 (certification of winnings);
- g) Article 33 (advertisement and customer card).<sup>65</sup>
  - 2) Repealed<sup>66</sup>
  - 3) The Government shall provide details by ordinance.

## V. Online gambling games

### A. Concessions

#### Article 60

##### *Concession requirement*

- 1) Anyone who organises online gambling games on a commercial or public basis shall require a concession issued by the Government.
- 2) There shall be no legal entitlement to the grant of a concession. The Government may limit the number of concessions by ordinance.

#### Article 60a<sup>67</sup>

##### *Submission and preliminary review of applications*

- 1) Concession applications must be submitted to the Office of Economic Affairs.
- 2) The Office of Economic Affairs shall review the application and, where necessary, request improvements or additional documents from the applicant and set a deadline in that regard.
- 3) The Office of Economic Affairs shall carry out the procedure expeditiously. It shall transmit the due diligence concept to the FMA for review.

<sup>65</sup> Article 59(1)(g) amended by LGBl. 2016 No. 198.

<sup>66</sup> Article 59(2) repealed by LGBl. 2016 No. 198.

<sup>67</sup> Article 60a inserted by LGBl. 2016 No. 198.

4) The applicant is required to notify the Office of Economic Affairs without delay of all significant changes to the information and documents submitted over the course of the procedure.

5) The Office of Economic Affairs shall recommend to the Government that a concession be granted or denied.

6) The Government shall provide details governing the procedure by ordinance.

Article 60b<sup>68</sup>

*Granting of a concession*

1) The Government shall decide on the granting of the concession.

2) If the number of submitted applications is higher than the number of concessions provided for by the Government, then the Government shall decide on the basis of the quality of the applications in view of optimal implementation of the objectives of this Act.

3) The concession shall set out terms and conditions.

Article 60c<sup>69</sup>

*Validity and prohibition of transfer*

1) As a rule, concessions shall be valid for five years. Where justified by special circumstances, the Government may provide a shorter or longer period.

2) Concessions may be extended or renewed. The Government shall provide details by ordinance.

3) Concessions shall be non-transferable. Any legal transactions disregarding or circumventing this prohibition shall be void.

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<sup>68</sup> Article 60b inserted by LGBl. 2016 No. 198.

<sup>69</sup> Article 60c inserted by LGBl. 2016 No. 198.

Article 61<sup>70</sup>*Additional rules governing concessions*

The following provisions shall apply *mutatis mutandis* to concessions for online gambling games:

- a) Article 9 (licensing conditions);
- b) Article 9a (legal form and registered office);
- c) Article 9b (own funds);
- d) Article 9c (general management);
- e) Articles 10 (security concept) and 11 (due diligence concept);
- f) Article 16 (notification requirement);
- g) Article 16a (expiry of licence);
- h) Article 17 (withdrawal, restriction, and suspension of licence);
- i) Article 17a (dissolution and liquidation after loss of licence).

**B. Special licences**

## Article 62

*Basic principle*

1) By ordinance, the Government may provide for special licences for services in connection with:

- a) server hosting;
- b) player referral on a commercial basis (affiliate programmes);
- c) marketing and promotion.

2) The Government shall provide details by ordinance, especially the licensing conditions, the competences, and the procedure.

3) Article 21 shall apply *mutatis mutandis*.

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<sup>70</sup> Article 61 amended by LGBL 2016 No. 198.

## C. Games offered

### Article 63

#### *Venues*

- 1) Online gambling games may be organised only:
- a) in the private domain; in particular, organising such games in public venues, gaming halls, or restaurants or bars shall not be permitted;
  - b) in licensed casinos.<sup>71</sup>

2) Anyone intending to organise online gambling games in a licensed casino must, to the extent the organiser is not itself a casino, conclude a written contract with the casino on the organisation of the games and submit the contract to the Office of Economic Affairs for approval in advance. The operation and tax liability of the games shall be subject to the rules governing gambling machines in casinos; by ordinance, the Government may provide exceptions, to the extent necessary for proper gaming operations.<sup>72</sup>

### Article 64

#### *Games*

1) Unless otherwise provided, the organiser of online gambling games may offer the following games electronically on the organiser's electronic platforms:

- a) the table games approved by the Government by ordinance as referred to in Article 18(2)(a);
- b) gambling machine games and jackpots as referred to in Article 19(2)(a);
- c) lotteries and wagers as referred to in Article 44;
- d) games of skill as referred to in Article 58.

2) The concession may limit the games offered.

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<sup>71</sup> Article 63(1)(b) amended by LGBl. 2016 No. 198.

<sup>72</sup> Article 63(2) amended by LGBl. 2016 No. 198.

## D. Gaming operations

### Article 65

#### *Basic principle*

To the extent not otherwise provided below, Articles 19, 20, 22 to 24, 26 to 29, 31, and 33 to 35 shall apply *mutatis mutandis* to the gaming operations of online gambling games.

### Article 66

#### *Publication requirements*

The organiser of online gambling games shall publish the following on the organiser's website:

- a) the name and address of the organiser;
- b) the date of the concession;
- c) a notice that the organiser is subject to the Gambling Act;
- d) a notice that minors are excluded from participation in online gambling games;
- e) the other information for players and the public as required under this Act.

### Article 67

#### *Identification and verification of identity*

1) Before the start of the game, the organiser shall demand the following information about the player:

- a) name and address, including email address;
- b) date of birth;
- c) bank account or credit card details, with name and address of the holder.

2) The organiser shall identify and verify the identity of the player in accordance with the provisions of the Due Diligence Act.<sup>73</sup>

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<sup>73</sup> Article 67(2) amended by LGBl. 2017 No. 165.

3) This article shall be subject to additional obligations under the Due Diligence Act.

#### Article 68

##### *Business relationships with players*

1) The organiser shall be required to establish a customer account for each player, via which all transactions in favour of and at the expense of the player shall be carried out. No player may dispose of more than one customer account.

2) The organiser shall make transfers in favour of the player exclusively to the account from which the player has most recently made deposits. After hearing the FMA, the Government may provide exceptions by ordinance.

3) The organiser is required:

- a) to ensure that players can at all times access the current account balance of their customer account and well as the account details;
- b) to allow the player to immediately transfer the player's balance and cancel the player's account, unless the Office of Economic Affairs has ordered the account frozen;<sup>74</sup>
- c) to immediately discontinue the business relationship with a player if the player has provided incorrect information;
- d) to take effective measures to protect customer assets, especially:
  1. by administering the organiser's assets and the customer's assets separately;
  2. by maintaining the organiser's banking connections with banks authorised in Liechtenstein;
  3. by refraining from active management of the customer's assets.

#### Article 69

##### *Payment transactions and documentation*

1) Deposits by players may be made by:

- a) electronic transfers;
- b) debit and credit cards;

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<sup>74</sup> Article 68(3)(b) amended by LGBl. 2017 No. 165.



- c) deposits at a bank or post office;
- d) bank cheques.
  - 2) The organiser may not conduct cash transactions with the player.
  - 3) The organiser may provide for minimum and maximum deposits.
  - 4) The organiser must log and document payment transactions with the player as well as game processes without any gaps.
  - 5) By ordinance, the Government may limit the amount of deposits by players.

#### Article 70

##### *Technical infrastructure*

- 1) The operations and maintenance of electronic platforms for the organisation and control of online gambling games shall primarily take place in Liechtenstein.<sup>75</sup>
- 2) Before being put into operation, the electronic platforms shall be certified by a qualified and independent specialised body recognised by the Office of Economic Affairs.
- 3) The Office of Economic Affairs may inspect electronic platforms or have them inspected.
- 4) The Government shall provide details by ordinance.

#### Article 71

##### *Control system*

- 1) The organiser shall operate an effective control system. The control system shall be subject to approval by the Office of Economic Affairs.
- 2) The control system shall in particular extend to the control of:
  - a) the operating concept, including the internal workflows and procedures, the procedure for taking part in the game, and the procedure for determining and paying out game winnings;
  - b) the proper functioning of the software;
  - c) bookkeeping;

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<sup>75</sup> Article 70(1) amended by LGBL 2016 No. 198.

- d) the procedure for ensuring a secure technical infrastructure;
- e) the security concept, including the emergency concept for ensuring operations according to plan after system breakdowns;
- f) the due diligence concept.

## E. Accounting and auditing

### Article 72

#### *Basic principle*

Articles 36 to 41 shall apply *mutatis mutandis* to the accounting and auditing of online gambling games.

## VI. Gambling tax

### Article 73

#### *Basic principle*

1) The State shall levy a tax (gambling tax) on the gross gambling revenue of gambling games in accordance with the following provisions.

2) The gambling tax shall amount to:

- a) for casinos: at least 17.5% and at most 40% of the gross gambling revenue; the tax rate shall be progressive;<sup>76</sup>
- b) for lotteries and wagers: at least 10% and at most 20% of the gross gambling revenue; the tax rate may be assessed differently depending on the type of gambling games offered;
- c) for online gambling games: at least 5% and at most 12.5% of the gross gambling revenue; the tax rate may be assessed differently depending on the type of gambling games offered.

3) The following shall be exempt from the gambling tax:

- a) raffles;

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<sup>76</sup> Article 73(2)(a) amended by LGBl. 2016 No. 198.

- b) gambling games of skill;
- c) minor organisers as referred to in Article 3(1)(m)(2) and (3);

4) By ordinance, the Government shall define the individual tax rates within the limits set out in paragraph 2. In doing so, it shall take into account that the providers of gambling games should be able to compete internationally and should be able to generate a reasonable return on their invested capital.

#### Article 74

##### *Assessment and collection*

1) The assessment and collection of the tax shall be the responsibility of the Office of Economic Affairs.

2) The providers of gambling games shall set out the settlement procedure for the gambling games they organise in a set of rules and shall submit it to the Office of Economic Affairs for approval.

3) If, despite warning, a provider of gambling games has not submitted a tax declaration or if the gross gambling revenue cannot be determined properly because of a lack of reliable documents, the Office of Economic Affairs shall determine the gross gambling revenue and carry out the official assessment. For this purpose, it may conduct an audit on site.

4) The right to demand a tax is subject to a period of limitation of five years upon expiry of the tax period, subject to the initiation of supplementary or penalty tax proceedings in accordance with Article 75. Tax demands are subject to a period of limitation of five years once the assessment has become legally effective.

5) By ordinance, the Government shall provide details concerning the procedure, especially the obligation to make payments on account and to pay default interest.

#### Article 75

##### *Supplementary and penalty tax*

1) If, on the basis of facts or evidence not previously known by the Office of Economic Affairs, it turns out that an assessment was incorrectly omitted or a legally effective assessment was carried out incompletely, then the taxes not levied, including interest, shall be paid as a supplementary tax. If the reason therefor lies in a misdemeanour or

contravention according to this Act, a penalty tax shall additionally be paid; the penalty tax shall at the most amount to five times the supplementary tax.

2) If the provider of gambling games has completely and precisely declared the underlying amounts in the provider's tax declaration, and if the Office of Economic Affairs knew of the bases necessary for valuing the individual components, then no supplementary tax may be levied.

3) The right to initiate supplementary or penalty tax proceedings shall expire ten years after expiry of the tax period for which an assessment was incorrectly omitted or a legally effective but incomplete assessment was carried out.

4) The initiation of criminal proceedings pursuant to Articles 88 et seq. shall simultaneously be considered the initiation of supplementary tax proceedings. The right to assess a supplementary tax shall expire 15 years after expiry of the tax period to which it refers.

## VII. Organisation and implementation

### A. Organisation

#### Article 76

##### *Executing authorities*

Supervision and execution of this Act shall be the responsibility of:

- a) the Government;
- b) the Office of Economic Affairs;
- c) the FMA.

#### Article 77

##### *Government*

- 1) The Government shall in particular be responsible for:

- a) the granting and withdrawing of authorisations in accordance with Articles 42(1) and 60;<sup>77</sup>
- b) appointment of the Expert Advisory Council in accordance with Article 80;
- c) Repealed<sup>78</sup>

2) The Government shall issue the ordinances necessary for execution of this Act and may, where necessary, consult specialists.

#### Article 78

##### *Office of Economic Affairs*

1) The Office of Economic Affairs shall be responsible for:

- a) supervision of the providers of gambling games and monitoring of compliance with the provisions of this Act and of the implementing ordinances, especially with respect to:
  - 1. the general management and gaming operations;
  - 2. the security and social concept;
  - 3. maintenance of the gambling register as referred to in Article 83a;<sup>79</sup>
- b) the granting and withdrawing of licences in accordance with Articles 8, 42(2) and (3), and 45;<sup>80</sup>
- c) performance of other duties delegated by law or ordinance.

2) These provisions shall be subject to the competences of the FMA as set out in Article 79.

3) For the performance of its duties, the Office of Economic Affairs may:

- a) demand all information and documents required for execution of this Act from providers of gambling games and their external auditors;
- b) issue decrees;
- c) order or carry out extraordinary audits;
- d) consult specialists;
- e) decree measures in accordance with Article 84;<sup>81</sup>

<sup>77</sup> Article 77(1)(a) amended by LGBl. 2016 No. 198.

<sup>78</sup> Article 77(1)(c) repealed by LGBl. 2016 No. 198.

<sup>79</sup> Article 78(1)(a)(3) inserted by LGBl. 2016 No. 198.

<sup>80</sup> Article 78(1)(b) amended by LGBl. 2016 No. 198.

<sup>81</sup> Article 78(3)(e) amended by LGBl. 2016 No. 198.

- f) work together with other authorities.

#### Article 79

##### *FMA*

1) The FMA is responsible for monitoring compliance with the provisions governing:

- a) the due diligence concept in accordance with Article 11;
- b) identification and verification of identity in accordance with Articles 25 and 67(2);<sup>82</sup>
- c) the means of payment and financial transactions in accordance with Article 30;
- d) certifications of winnings in accordance with Article 31;
- e) business relationships with players in accordance with Article 68; and
- f) payment transactions and documentation in accordance with Article 69.

2) These provisions shall be subject to the provisions of the Due Diligence Act.

#### Article 80

##### *Expert Advisory Council on Gambling*

1) The Government shall establish an Expert Advisory Council on Gambling as a standing advisory commission.

2) The Expert Advisory Council shall be composed of three to five independent specialists who represent at a minimum the areas of gambling law, technical gaming requirements, operation of casinos or online gambling games, anti-money laundering, and gambling addiction and who are neither members of the board of directors nor employees of holders of a licence or concession under this Act or of companies closely associated with them.

3) The Expert Advisory Council shall assist the Government, the Office of Economic Affairs, and the FMA on all specialised and strategic questions concerning gambling. It shall support them in implementing this Act and may submit recommendations to them.

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<sup>82</sup> Article 79(1)(b) amended by LGBl. 2016 No. 198.

4) The Expert Advisory Council shall set out its own rules of procedure, which shall be subject to approval by the Government.

Article 81<sup>83</sup>

*Cooperation of domestic authorities*

1) The executing authorities, the Expert Advisory Council, the external auditors, the courts, and the Office of the Public Prosecutor are required to provide each other with all information and documents necessary for the enforcement of this Act and the Due Diligence Act.

2) The courts and the Office of the Public Prosecutor shall notify the executing authorities without delay of the initiation and discontinuation of criminal, bankruptcy, or disciplinary proceedings against operators of gambling games, their general managers, and the external auditors mandated by them. The courts shall submit copies of judgments to that effect to the executing authorities without being requested to do so.

Article 81a<sup>84</sup>

*Cooperation with foreign authorities*

1) To the extent cooperation with foreign authorities is not governed by special laws, the following provisions shall apply.

2) The executing authorities shall transmit to a requesting competent foreign gambling authority all information which the latter needs to exercise its duties of supervision, provided that:

- a) doing so does not violate the sovereignty, security, public order, or other substantial interests of Liechtenstein;
- b) the recipients and the persons employed with and instructed by the competent foreign authority are subject to official or professional secrecy;
- c) it is guaranteed that the information given will be used only for the purposes of gambling supervision;
- d) information that comes from abroad is given with the express consent of the authority that disclosed that information, and if it is guaranteed that the information will only be forwarded, if at all, for the purpose to which such foreign authority has given its consent;

<sup>83</sup> Article 81 amended by LGBl. 2016 No. 198.

<sup>84</sup> Article 81a inserted by LGBl. 2016 No. 198.

e) it is guaranteed that the competent foreign authority would honour an equivalent request from Liechtenstein.

3) The executing authorities may request foreign gambling supervisory authorities to transmit all information necessary to perform their duties under law.

4) The competent domestic authorities may use the information received from foreign supervisory authorities only for the following purposes in the performance of their duties under law:

- a) to verify that the provisions under this Act and the Due Diligence Act are met;
- b) to impose penalties;
- c) in administrative proceedings contesting the decisions of a competent authority; or
- d) in court proceedings.

#### Article 81b<sup>85</sup>

##### *Official secrecy*

1) The executing authorities, the members of the Expert Advisory Council, the employees of the external auditors, and any other persons consulted by them shall be subject to official secrecy without limitation in time with regard to the information they come to know in the course of their activities.

2) Information as referred to in paragraph 1 may be forwarded in accordance with legal provisions.

#### Article 81c<sup>86</sup>

##### *Official liability*

1) The State shall be liable for official acts of the Office of Economic Affairs, its staff, and the persons it mandates only if:

- a) significant official duties have been violated; and
- b) damages are not due to breaches of duty by a mandated person.

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<sup>85</sup> Article 81b inserted by LGBl. 2016 No. 198.

<sup>86</sup> Article 81c inserted by LGBl. 2016 No. 198.



2) The liability of the State shall otherwise be governed *mutatis mutandis* by the Official Liability Act.

## B. Execution

### Article 82<sup>87</sup>

#### *Duty to cooperate*

1) Operators of gambling games are required to cooperate free of charge in the execution of this Act. They must truthfully provide the executing authorities with all notifications and information required under this Act and permit them to enter their facilities at all times.

2) The holders of an authorisation under this Act must at all times grant the execution and prosecution authorities, within the framework of the performance of their duties, access to their documents and the register on gambling bans and to produce copies thereof.

3) If there is reason to believe that an activity subject to this Act is being carried out without authorisation, the executing authorities may demand information and documents from the persons concerned as if they were persons subject to this Act.

4) The Government may provide details by ordinance.

### Article 82a<sup>88</sup>

#### *Processing of personal data*

1) To the extent necessary for the performance of their duties under this Act, the executing authorities, the members of the Expert Advisory Council, the employees of the external auditors and any other persons consulted by them may process or have processed personal data, including processing of:

- a) biometric data uniquely identifying a person;
- b) health data, but only to the extent limited to gambling and betting addiction;
- c) personal data concerning criminal convictions and offences.

<sup>87</sup> Article 82 amended by LGBl. 2016 No. 198.

<sup>88</sup> Article 82a amended by LGBl. 2018 No. 287.

2) The provisions of archiving and data protection legislation shall apply to the retention and archiving of data.

3) By ordinance, the Government shall provide details concerning the processing of data referred to in paragraph 1.

Article 82b<sup>89</sup>

*Disclosure of personal data*<sup>90</sup>

1) The executing authorities, the members of the Expert Advisory Council, the employees of the external auditors, and any other persons consulted by them may disclose data referred to in Article 82a(1):<sup>91</sup>

- a) to other executing authorities, members of the Expert Advisory Council, employees of the external auditors, and any other persons consulted by them to the extent necessary for the performance of their duties under law;
- b) the courts and the Office of the Public Prosecutor, to the extent the data is necessary for the performance of their duties under law, in particular for the investigation of criminal offences;
- c) other authorities and bodies, to the extent necessary for the performance of any of their duties delegated by law;
- d) for the performance of publication requirements under this Act and the Due Diligence Act;
- e) to foreign gambling supervisory authorities in accordance with Article 81a;
- f) to the extent absolutely necessary or expressly provided in regard to the performance of duties delegated under this Act and the Due Diligence Act.

2) Non-personal data may be disclosed to third parties to the extent such disclosure is in the public interest.<sup>92</sup>

3) Disclosure of the data shall as a rule be in writing.<sup>93</sup>

<sup>89</sup> Article 82b inserted by LGBl. 2016 No. 198.

<sup>90</sup> Article 82b heading amended by LGBl. 2018 No. 287.

<sup>91</sup> Article 82b(1) introductory phrase amended by LGBl. 2018 No. 287.

<sup>92</sup> Article 82b(2) amended by LGBl. 2018 No. 287.

<sup>93</sup> Article 82b(3) amended by LGBl. 2018 No. 287.

4) By ordinance, the Government shall provide details concerning the disclosure of data referred to in Article 82a(1).<sup>94</sup>

Article 83<sup>95</sup>

*Joint register of gambling bans*

1) Instead of their own register (Article 22(3)), casinos and organisers of online gambling games may maintain a joint electronic register in which the gambling bans referred to in Article 22(1)(b) to (d) and 22(2)(a) and (b) are entered. A third party may be mandated to maintain the register in lieu of a casino or an organiser of online gambling games.

2) The participating casinos and organisers of online gambling games shall without delay enter or have entered in the joint register all the information required under Article 22(3), in particular the surname, first name, date of birth, and address of suspended persons as well as the type, date of imposition, reason, and lifting of the gambling ban or suspension.<sup>96</sup>

3) The participating casinos and organisers of online gambling games shall without delay notify the Office of Economic Affairs of the maintenance of a joint register. Article 82(2) shall apply *mutatis mutandis* to the right of inspection.

4) The Government shall provide details concerning maintenance of the joint register by ordinance.

Article 83a<sup>97</sup>

*Gambling register*

1) The Office of Economic Affairs shall maintain a public register of the authorised operators of gambling games.

2) Information on the operator and on the type, duration, and scope of the authorisation shall be entered in this register. Administrative measures and administrative criminal penalties under this Act may also be entered.

3) The register may be accessed via the website of the Office of Economic Affairs.

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<sup>94</sup> Article 82b(4) amended by LGBl. 2018 No. 287.

<sup>95</sup> Article 83 amended by LGBl. 2016 No. 198.

<sup>96</sup> Article 83(2) amended by LGBl. 2018 No. 287.

<sup>97</sup> Article 83a inserted by LGBl. 2016 No. 198.

4) The Government shall provide details concerning maintenance of the register by ordinance.

#### Article 84<sup>98</sup>

##### *Measures*

1) If violations of this Act or other grievances occur, the Office of Economic Affairs shall decree the measures necessary to restore the proper state of affairs and to remedy the grievances, subject to measures imposed by the FMA within its scope of competence.

2) The Office of Economic Affairs may take precautionary measures for the period of the investigation and in particular:

- a) suspend authorisations;
- b) close the operations in whole or in part in which gambling games are offered;
- c) take other measures to prevent the performance of gambling games.

3) In urgent cases, the measures referred to in paragraphs 1 and 2 may be ordered as immediately executable decrees as provided for in Article 52 of the National Administration Act without prior proceedings. The Office of Economic Affairs shall inform the Government without delay of the ordered measures. If the measure concerns the holder of an authorisation under Article 8 or 60, the Office of Economic Affairs shall additionally inform the FMA.

4) If an enforceable decision or decree is not complied with, the Office of Economic Affairs may, after threatening to do so:

- a) carry out the ordered action itself, at the expense of the provider of gambling games;
- b) announce publicly that the provider of gambling games has resisted the enforceable decision or decree.

#### Article 85<sup>99</sup>

##### *Supervision tax*

1) The Office of Economic Affairs shall levy an annual supervision tax from the holders of an authorisation under Articles 8, 42, and 60. Minor

<sup>98</sup> Article 84 amended by LGBl. 2016 No. 198.

<sup>99</sup> Article 85 amended by LGBl. 2016 No. 198.

organisers as defined in Article 3(1)(m)(2) and (3) shall be exempt from the supervision tax. The supervision taxes levied by the FMA shall be governed by the Financial Market Authority Act (FMAG).

2) The amount of the supervision tax shall be as follows:

- a) for casinos and organisers of online gambling games: 2% of gross gambling revenue, but at least 50 000 Swiss francs and at most 300 000 Swiss francs;
- b) for organisers of lotteries or wagers: 2% of gross gambling revenue, but at least 2 000 Swiss francs and at most 30 000 Swiss francs;
- c) minor organisers as defined in Article 3(1)(m)(1): 2% of gross gambling revenue, but at least 500 Swiss francs.

3) If a taxable entity holds several authorisations, the tax liability applies to each authorisation.

4) Tax liability shall commence upon granting of the authorisation and shall cease upon withdrawal or expiry thereof. If the tax liability commences or ceases in the current calendar year, the supervision tax shall be levied *pro rata temporis*.

5) The data required for calculation of the supervision tax must be notified to the Office of Economic Affairs at the latest by 31 March of the following year. If, despite being requested by the Office of Economic Affairs, taxable entities fail to notify the data required for calculation of the supervision tax, or do so only inadequately, the Office of Economic Affairs shall use its own discretion in determining the required data on the basis of the information it has at its disposal at that time.

6) The data referred to in paragraph 5 shall be forwarded without delay to the FMA for the purpose of calculating the additional levy as set out in Annex 2(IV)(C)(2) FMAG.

7) By ordinance, the Government shall provide details concerning the levy of supervision taxes.

#### Article 86<sup>100</sup>

##### *Fees*

1) Persons availing themselves or causing others to avail themselves of a service, proceedings, or a decree of the Office of Economic Affairs or the Government in connection with execution of gambling legislation must

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<sup>100</sup> Article 86 amended by LGBl. 2016 No. 198.

pay a fee covering the costs. The fees for services of the FMA shall be governed by the FMAG.

2) The amount of the fees shall be as follows:

- a) for granting of a casino licence: 20 000 Swiss francs;
- b) for granting of a concession to organisers of online gambling games: 10 000 Swiss francs;
- c) for granting of a licence to organisers of lotteries or wagers: 4 000 Swiss francs;
- d) for granting of a licence to minor organisers:
  1. under Article 3(1)(m)(1): 600 Swiss francs;
  2. under Article 3(1)(m)(2): 200 Swiss francs;
  3. under Article 3(1)(m)(3): 300 Swiss francs.

3) For all other activities subject to a fee as referred to in paragraph 1, the fee shall be determined in accordance with time and costs incurred. The hourly rate shall amount to 100 to 300 Swiss francs depending on the functional level of the person carrying out the activity.

4) The fees referred to in paragraph 2 must be paid in advance. If the application is denied or withdrawn, half of the fee shall be reimbursed.

5) By ordinance, the Government shall provide details, in particular concerning passing on of external costs, surcharges, and the levy of fees.

## VIII. Legal remedies

### Article 87

#### *Complaint*

1) A complaint may be submitted to the Government against decrees issued by the Office of Economic Affairs within 14 days of service.

2) A complaint may be submitted to the Administrative Court against decisions and decrees of the Government within 14 days of service.

3) To the extent not otherwise ordered, a complaint against decisions and decrees as referred to in paragraphs 1 and 2 shall not have suspensive effect. The chair of the appellate body may, on the motion of the complainant, grant suspensive effect to a complaint to the extent that there are no countervailing and compelling public interests and immediate

enforcement would result in an irreparable disadvantage for the complainant.<sup>101</sup>

## IX. Penal provisions

### Article 88

#### *Misdemeanours*

1) The Court of Justice shall punish with imprisonment of up to one year or a monetary penalty of up to 360 daily rates for a misdemeanour anyone who wilfully:

- a) organises, operates, brokers, disseminates, provides space for, advertises for, brings people together for, obtains gaming equipment including software for, or otherwise commercially promotes a gambling game without having the authorisation necessary for the gambling game or without the gambling game being legally exempt from such authorisation;<sup>102</sup>
- b) fraudulently obtains the grant of an authorisation by providing untrue information or otherwise;<sup>103</sup>
- c) transfers an authorisation to a third party;<sup>104</sup>
- d) manipulates authorised gambling games;<sup>105</sup>
- e) evades the gambling tax by preventing the collection thereof by providing untrue or incomplete declarations or information or otherwise culpably withholds the tax.

2) The Court of Justice shall punish with imprisonment of up to six months or a monetary penalty of up to 180 daily rates for a misdemeanour anyone who wilfully:

- a) violates the terms or conditions of an authorisation under this Act;<sup>106</sup>
- b) provides false information or conceals significant facts in the required notifications or reports to the Office of Economic Affairs, the FMA, or the external auditors under Article 13(4), 16, 36(1), 38(2), 39, 40,

<sup>101</sup> Article 87(3) inserted by LGBl. 2016 No. 198.

<sup>102</sup> Article 88(1)(a) amended by LGBl. 2016 No. 198.

<sup>103</sup> Article 88(1)(b) amended by LGBl. 2016 No. 198.

<sup>104</sup> Article 88(1)(c) amended by LGBl. 2016 No. 198.

<sup>105</sup> Article 88(1)(d) amended by LGBl. 2016 No. 198.

<sup>106</sup> Article 88(2)(a) amended by LGBl. 2016 No. 198.

- 46(4), 49, 51(3), 57, 58(1), 60a(4), or 85(5) or in relation to other casinos and organisers of online gambling games under Article 22(4) or 83(2);<sup>107</sup>
- c) provides false information to an executing authority or refuses to grant the executing authority access to its facilities as a provider of gambling games;
  - d) in violation of Article 29, grants loans or advances or allows third parties to grant loans or advances on a commercial basis;
  - e) accepts bearer cheques from players, issues such cheques to them, or violates other provisions governing business relationships with players, financial transactions and payment transactions pursuant to Article 30, 68, or 69;
  - f) organises online gambling games in violation of Article 63(1) outside the private domain or casinos;
  - g) fails to properly keep the business books, or fails to properly store the business books and records;
  - h) gravely breaches duties as an external auditor.
- 3) The penalties may be combined.
- 4) In the case of negligent commission, the maximum penalty shall be reduced by half.

#### Article 89

##### *Contraventions*

- 1) The Government shall punish with a fine of up to 250 000 Swiss francs, or with imprisonment of up to three months if the fine cannot be collected, for an administrative contravention anyone who:
- a) operates a gambling game or system without or deviating from the required review, conformity assessment, or authorisation or violates other technical gaming requirements pursuant to Articles 18 to 20, 28, 51 to 53, 58(2), 59, 64, or 70;
  - b) violates the obligation to preserve legal peace pursuant to Article 7 when organising gambling games abroad;
  - c) allows persons to take part in a gambling game who are subject to a gambling ban or suspension;
  - d) fails to properly carry out the identification pursuant to Article 25(1);

<sup>107</sup> Article 88(2)(b) amended by LGBl. 2016 No. 198.



- e) violates the obligation of secrecy;<sup>108</sup>
- f) violates the obligations to properly operate quality management, accounting, control, or camera systems;
- g) unlawfully certifies game winnings;
- h) in violation of Article 33, advertises in an intrusive or misleading manner or fails to name the organiser;
- i) violates the publication requirements pursuant to Article 66;
- k) fails to prepare the business report according to the requirements;
- l) fails to have the regular external audit or an external audit ordered by the competent authority carried out;
- m) fails to meet its obligations vis-à-vis the external auditors;
- n) fails to submit the required notifications or reports to the Office of Economic Affairs, the FMA, or the external auditors under Article 13(4), 16, 36(1), 38(2), 39, 40, 46(4), 49, 51(3), 57, 58(1), 60a(4), or 85(5) or in relation to other casinos and organisers of online gambling games under Article 22(4) or 83(2) in accordance with the requirements or in a timely manner;<sup>109</sup>
- o) fails to comply with a demand by the competent authority to restore a lawful state of affairs or any other decree;
- p) violates a duty to cooperate under Article 82.<sup>110</sup>

2) In the case of negligent commission, the maximum penalty shall be reduced by half.

#### Article 90

##### *Applicability of other penal norms*

These provisions shall not affect punishability pursuant to other penal norms, especially under the Due Diligence Act.

<sup>108</sup> Article 89(1)(e) amended by LGBl. 2018 No. 287.

<sup>109</sup> Article 89(1)(n) amended by LGBl. 2016 No. 198.

<sup>110</sup> Article 89(1)(p) inserted by LGBl. 2016 No. 198.

Article 91<sup>111</sup>*Violations of the authorisation or official orders*

If a legal person holding an authorisation under this Act violates the authorisation or a legally effective decree to its own benefit, then it shall be punished by the Court of Justice with a monetary penalty of up to three times the amount of the gains generated by the violation. If no gains were generated or if they cannot be determined or estimated, then the penalty shall be up to 20% of the gross gambling revenue of the last business year.

## Article 92

*Disgorgement*

1) If a contravention as set out in Article 89 is committed and an economic advantage is thereby generated, the Government shall order disgorgement of the economic advantage and shall require the beneficiary to pay a corresponding sum of money.

2) Paragraph 1 shall not apply if the economic advantage is remedied through compensation for damages or other performances. To the extent the beneficiary makes such performances only after disgorgement, the sum of money paid shall be reimbursed in the amount of the payments for which evidence is provided. The amount of the economic advantage may be estimated.

3) Disgorgement shall be subject to a period of limitation of five years upon cessation of the violation.

4) The procedure shall be governed by the provisions of the National Administration Act.

5) Repealed<sup>112</sup>

Article 92a<sup>113</sup>*Forfeiture*

Forfeiture for misdemeanours under Article 88 shall be governed by §§ 20 et seq. of the Criminal Code (StGB).

<sup>111</sup> Article 91 amended by LGBl. 2016 No. 198.

<sup>112</sup> Article 92(5) repealed by LGBl. 2016 No. 176.

<sup>113</sup> Article 92a inserted by LGBl. 2016 No. 176.

## Article 93

*Liability*

If the violations are committed in the business operations of a legal person, a general or limited partnership, or a sole proprietorship, the penal provisions shall apply to the persons who have acted on its behalf or should have acted on its behalf, but with joint and several liability of the legal person, partnership, or sole proprietorship for monetary penalties, fines, and costs.

## Article 94

*Announcement of penalties*

The Government may announce the imposition of legally effective punishments and fines, provided that doing so realises the purpose of this Act and is proportionate.

## **X. Enforceability of claims arising from gambling games**

Article 95<sup>114</sup>*Basic principle*

1) An enforceable claim shall arise from a gambling game under this Act if the organisation of the game has been authorised by the competent authority.

2) If no such authorisation exists, such a claim shall be treated the same as a contract of chance under §§ 1267 et seq. of the General Civil Code (ABGB).

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<sup>114</sup> Article 95 amended by LGBl. 2016 No. 198.

## XI. Transitional and final provisions

### Article 96<sup>115</sup>

Repealed

### Article 97

#### *Transitional provision*

Licences for organising a gambling game granted under the law hitherto in force which no longer meet the requirements under this Act and the associated ordinances shall be adjusted to the new law or, where necessary, withdrawn or revoked within one year of entry into force of this Act.

### Article 98

#### *Implementing ordinances*

The Government shall issue the ordinances required to implement this Act.

### Article 99

#### *Repeal of law hitherto in force*

The following shall be repealed:

- a) Law of 14 March 1949 on Prohibited Games and Wagers, LGBI. 1949 No. 7;
- b) § 71(6) of the Final Part of the Law on Persons and Companies of 20 January 1926, LGBI. 1926 No. 4.

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<sup>115</sup> Article 96 repealed by LGBI. 2016 No. 198.

## Article 100

*Entry into force*

This Act shall enter into force on 1 January 2011 if no referendum is called before the deadline, and otherwise on the day of its promulgation.

Representing the Reigning Prince:  
signed *Alois*  
Hereditary Prince

signed *Dr. Klaus Tschütscher*  
Prime Minister

935.51

**Transitional provisions**

**935.51 Gambling Act (GSG)**

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**Law**  
of 7 April 2016  
**amending the Gambling Act**

...

**II.****Transitional provision**

Authorisations for organising a gambling game granted under the law hitherto in force that no longer meet the requirements of this Act and the associated ordinances shall remain valid until they expire.

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