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# Gaming Law 2023

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## **Portugal: Law & Practice**

Rui Pinto Proença, Carlos Eduardo Coelho  
and Francisco Sá da Bandeira  
MdME



# PORTUGAL



## Law and Practice

### Contributed by:

Rui Pinto Proença, Carlos Eduardo Coelho and Francisco Sá da Bandeira  
MdME

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**MdME** operates as a full-fledged law firm, advising both domestic and global clients in matters of Portuguese law. Its international and diverse team of more than 20 Portuguese-qualified lawyers is renowned for its technical skill, client-focused approach, and ability to get things done. MdME has brought to Portugal its unique gaming sector expertise, developed alongside the world's largest casino market, Macau. Over the past two decades, it has advised clients in developing some of the world's most iconic integrated resorts, in landmark financing and

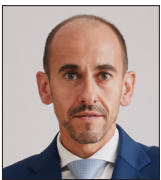
initial public offerings of global gaming players, and in shaping land-based and online legislation in emerging jurisdictions. Its gaming sector team acts for casino operators, integrated resort owners, gaming equipment manufacturers, technology suppliers, sports betting companies, online and mobile operators, payment platforms, and gaming content developers. It has also represented governments, regulatory agencies, private equity firms, lenders, and fund houses with significant investments in the gaming sector.

## Authors



**Rui Pinto Proença** is MdME's managing partner and key contact in its gaming sector practice. He is Macau's only lawyer who has been ranked as a Band 1 practitioner in

Chambers and Partners Gaming APAC. Rui often advises casino operators, sports betting companies, technology providers and gaming investors in a broad range of commercial and regulatory matters. He has also assisted governments in emerging markets in developing their gaming policies and regulatory frameworks. Rui is a member of the Board of Trustees of the International Association of Gaming Advisors (IAGA).



**Carlos Eduardo Coelho** is a partner at MdME and a key contact in its gaming sector practice, assisting gaming equipment manufacturers, technology providers, sports

betting operators, as well as online and mobile gaming companies in a wide range of commercial, licensing, and regulatory matters.



**Francisco Sá da Bandeira** is a counsel at MdME and a member of the gaming sector practice. Having worked as an in-house counsel for one of the world's largest integrated casino-

resorts, he is recognised for his experience in the key legal aspects of integrated resort development and operations. Francisco advises casino and integrated-resorts operators, sports betting and lottery companies, and technology providers in a broad range of commercial and regulatory matters. He has been involved in several high-profile corporate financings and in the initial public offering of one of the six Macau gaming operators with the Hong Kong Stock Exchange.

## MdME

Rua Barata Salgueiro  
No 37, 2ºD  
1250-042 Lisboa  
Portugal

Tel: +351 210 548 450  
Fax: +351 210 548 454  
Email: lisbon@mdme.com  
Web: www.mdme.com/en

# MdME

## 1. Introduction

### 1.1 Current Outlook and Recent Changes

The market continues to experience a trend of revival of land-based casinos, following the full and final removal of public health restrictions implemented to combat the COVID-19 pandemic. From an annual perspective, the gross gaming revenue generated in the year 2022 by land-based casino gaming increased by 76.5% as compared to the previous year, having remained relatively stable throughout the first two quarters of 2023.

There are currently 12 land-based casinos operating in nine different gaming areas in Portugal, with two main groups (*Estoril-Sol* and *Grupo Solverde*) controlling approximately 85% of the market by revenue. In 2022, two concessions were put out for tender for the Lisbon/Estoril gaming area and the *Figueira da Foz* gaming area, but did not attract significant interest; the public tender for the Lisbon/Estoril concession had only two bidders (one being the incumbent operator, and ultimately the winning bidder) and the *Figueira da Foz* concession had only one (the incumbent operator).

There are three concession contracts that will end on 31 December 2025 (*Póvoa do Varzim*, *Espinho*, and the *Algarve*) and a public tender for each of these concessions must be opened. These may well be the last public tenders for the operation of land-based casinos to be launched in Portugal this decade.

In the online gaming segment, there are currently 17 operators and 30 licences issued (13 sports betting licences and 17 games-of-chance licences), with a total gross gaming revenue of EUR656.1 million in 2022 (a year-on-year increase of 23.3%). This upward tendency is continuing in 2023, with online gaming revenues increasing slightly in the first and second quarters, as compared in each case to the immediately preceding quarter.

There have been no recent changes to the land-based or online gaming legal frameworks.

### Social Gaming

There is no specific regulation on social gaming.

### E-sports

There is no specific regulation on e-sports.

## Fantasy Sports

There is no specific regulation on fantasy sports.

## Skill Gaming

There is no specific regulation on skill gaming.

## Blockchain or Cryptocurrency

There is no specific regulation on blockchain/crypto-related gaming.

## 2. Jurisdictional Overview

### 2.1 Online

The commercial operation of online gaming is permitted and regulated. A private entity may offer online gaming products, subject to obtaining the relevant licence(s).

There are four types of licences available, for the following activities:

- fixed-odds sports betting;
- pari-mutuel and fixed odds horse racing wagering;
- online bingo; and
- online games of chance.

The following gaming products are allowed to be offered online:

- baccarat punto banco;
- baccarat punto banco/Macau;
- blackjack/21;
- craps;
- Cussec (Sic Bo);
- Caribbean stud poker;
- American roulette;
- French roulette;
- baccarat chemin de fer;
- bingo;
- poker (Omaha, Hold'em, Spanish);

- slot machines;
- sports betting; and
- horse race wagering.

The online offering of new types of games of chance is only allowed after being authorised by the competent authorities.

### 2.2 Land-Based

#### Overview

The commercial operation of land-based casino gaming and bingo halls is permitted and regulated. A private entity may only operate a casino or bingo hall if it is awarded a concession contract from the Portuguese state, following a public tender process.

#### Land-Based Casinos

The commercial offering of games of chance is only permitted within an approved casino, located in one of the gaming areas pre-defined by statute. The Gaming Law establishes nine different gaming areas:

- *Algarve*;
- *Espinho*;
- *Estoril*;
- *Figueira da Foz*;
- *Funchal*;
- *Porto Santo*;
- *Póvoa de Varzim*;
- *Tróia* and
- *Vidago-Pedras Salgadas*.

Currently, there are 12 casinos operating in Portugal:

- *Casino de São Miguel*;
- *Casino de Vilamoura*;
- *Casino de Monte Gordo*;
- *Casino de Portimão*;
- *Casino de Espinho*;

- *Casino da Figueira da Foz*;
- *Casino do Estoril*;
- *Casino de Lisboa*;
- *Casino da Póvoa de Varzim*;
- *Casino de Tróia*;
- *Casino de Chaves* and
- *Casino da Madeira*.

The following types of games of chance are allowed to be offered in land-based casinos:

- baccarat punto banco;
- baccarat punto banco/Macau;
- blackjack/21;
- craps;
- Cussec (Sic Bo);
- Caribbean stud poker;
- American roulette;
- French roulette;
- baccarat chemin de fer;
- bingo;
- poker (Omaha, Hold'em, Spanish); and
- slot machines.

The land-based offering of new types of games of chance is only allowed after being authorised by the competent authorities.

## Vessels or Aircraft Outside the National Territory, and Off-Site Casinos and Amusement Machines

The operation of casino games of chance on board aircrafts or vessels registered in Portugal may be permitted when outside the national territory. The operation of non-banked card games may also be temporarily permitted outside casinos in connection with certain events of significant touristic importance.

The permanent operation of slot halls in hotel properties located in touristic destinations may also be authorised. The permission to operate

slot halls in such locations can only be granted to the casino concessionaire that operates the casino nearest to the proposed slot hall location.

## Land-Based Bingo Halls

The commercial offering of land-based bingo is only permitted within an approved bingo hall. A bingo hall is only allowed to offer the game of bingo, in its traditional form or electronically.

Currently, there are 14 authorised bingo halls in Portugal:

- *Sala de jogo do Bingo "Boavista"*;
- *Sala de jogo do Bingo do Porto*;
- *Sala de jogo do Bingo de Coimbra*;
- *Sala de jogo do Bingo da Nazaré*;
- *Sala de jogo do Bingo de Lisboa "Belenenses"*;
- *Sala de jogo do Bingo "Koala"*;
- *Sala de jogo do Bingo de Lisboa "Panda"*;
- *Sala de jogo do Bingo de Lisboa*;
- *Sala de jogo do Bingo de Odivelas*;
- *Sala de jogo do Bingo da Amadora*;
- *Sala de jogo do Bingo de Almada*;
- *Sala de jogo do Bingo de Setúbal*;
- *Sala de jogo do Bingo da Amora* and
- *Sala de jogo do Bingo de Olhão*.

## State-Run Games

The operation of the following games is granted on an exclusive basis to *Santa Casa da Misericórdia de Lisboa* (SCML), a charitable public entity funded by the Portuguese state:

- land-based fixed-odds sports betting;
- land-based horse racing wagering;
- national lottery;
- instant lottery;
- Joker;
- football pools (totogolo); and
- European lottery (EuroMillions).

## 3. Legislative Framework

### 3.1 Key Legislation

There are three key pieces of legislation regulating the commercial operation of gaming in Portugal:

- the “Gaming Law” (Decree-Law No 422/89 as subsequently amended), which establishes the legal framework for the operation of land-based casino gaming;
- the “Online Gaming Law” (Decree-Law No 66/2015, as subsequently amended), which establishes the legal framework for the operation of online gaming; and
- the “Bingo Law” (Decree-Law No 31/2011, as subsequently amended), which establishes the legal framework for the operation of bingo halls.

Other relevant legislation applicable to the gaming sector is as follows:

- Law No 83/2017, on anti-money laundering and counter-terrorism financing measures;
- Law No 8/2006, which regulates the hiring of casino croupiers/dealers; and
- Decree-Law No 330/1990, as amended, which approves the Advertisement Code.

Further regulations and regulatory instructions applicable to the operation of land-based and online gaming are issued by the Gaming Regulation and Inspection Services. These can be accessed through the following websites:

- [land-based gaming](#); and
- [online gaming](#).

In addition, there is a specific legal framework governing state-run games. Under Portuguese law, certain forms of gaming are operated exclu-

sively by SCML, such as lotteries (including instant lotteries), land-based sports wagering, and horse racing. The legislation applicable to state-run games is as follows:

- Decree-Law No 40/397, as amended, governs the national lottery;
- Decree-Law No 84/85, as amended, governs pari-mutuel sports betting;
- Decree-Law No 412/93, as amended, governs the “Joker” game;
- Decree-Law No 314/94, as amended, governs the instant lottery;
- Decree-Law No 225/98, as amended, governs the football pools (totogolo);
- Decree-Law No 282/2003 governs the online acceptance of wagers and payment of prizes in state-run games;
- Decree-Law No 210/2004, as amended, governs the European lottery (EuroMillions);
- Decree-Law No 67/2015 governs land-based fixed-odds sports betting; and
- Decree-Law No 68/2015 governs land-based horse race betting.

### 3.2 Definition of Gambling

Gaming is generally defined by reference to the play of games of chance, which are defined as those games in which the outcome depends exclusively or predominantly on a player’s luck.

### 3.3 Definition of Land-Based Gambling

The Gaming Law defines land-based gaming as the play of games and wagers carried out in casinos, bingo halls, or other places previously authorised for such purpose, and which require the physical presence of the player (at such locations).

### 3.4 Definition of Online Gambling

The Online Gaming Law defines online gaming as the play of games of chance, fixed-odds



sports bets and horse racing bets, pari-mutuel, or fixed odds, carried out remotely, through electronic means, computer media, telematics, interactive media, or any other means through the usage of any devices, equipment or systems that enable the production, storage and transmission of documents, data, and information. Online games of chance are defined as those in which the outcome depends exclusively or predominantly on a player's luck, and in which the player will wage a certain amount in cash.

### 3.5 Key Offences

Key offences include:

- unlicensed supply of gaming;
- play in unlicensed venues;
- coercion to play;
- fraudulent play;
- extension of credit for gaming; and
- unlicensed manufacture or supply of gaming equipment.

### 3.6 Penalties for Unlawful Gambling

The operation of land-based gaming activities outside legally authorised areas is a criminal offence, punishable with imprisonment of up to two years and a monetary fine. The same punishment is applied to the individuals responsible for such operation, including directors, managers, employees, and agents of the offending entity.

The unauthorised operation, promotion or organisation of online gaming activities, as well as the facilitation of play in Portugal from a server located overseas, are criminal offences punishable with imprisonment of up to five years or a monetary fine.

The play of games of chance outside legally authorised areas is a criminal offence punishable with imprisonment of up to six months and

a monetary fine. The presence in an unlawful gaming site (without playing) is also punishable with imprisonment of up to three months.

### 3.7 Recent or Forthcoming Legislative Changes

There is no relevant recent or forthcoming legislation.

## 4. Licensing and Regulatory Framework

### 4.1 Regulatory Authority

The regulation of gaming in Portugal is conducted by:

- the Gaming Commission (*Comissão de Jogos*), which co-ordinates and oversees the activity of the Gaming Regulation and Inspection Service, and has control, supervisory, regulatory, and sanctioning powers; and
- the Gaming Regulation and Inspection Service (*Serviço de Regulação e Inspeção de Jogos* – the SRIJ), which is responsible for the control, inspection and regulation of gaming activities in casinos and bingo halls, and of online games of chance, sports betting, and horse racing wagering.

Both entities are departments of the National Tourism Authority.

SCML is empowered to monitor and operate state-run games, and is subject to the supervision of the Ministry of Labour, Solidarity, and Social Security.

### 4.2 Regulatory Approach

Portugal generally adopts a prescriptive approach to gaming regulation.

### 4.3 Recent or Forthcoming Changes

There have been no recent changes or forthcoming changes on the licensing and regulatory framework.

### 4.4 Types of Licences

#### Land-Based Gaming (Casinos and Bingo Halls)

There are two types of land-based licences:

- for the operation of games of chance in casinos; and
- for the operation of bingo halls.

These licences are granted to private entities in the form of a concession contract, awarded following a public tender process. A concession contract typically establishes an exclusive right to operate within a certain gaming area.

#### Online Gaming

The Online Gaming Law establishes gaming licences for the following types of games:

- fixed-odds sports betting;
- pari-mutuel and fixed odds horse racing wagering;
- online bingo; and
- online games of chance.

As of 30 June 2023, 17 entities were authorised to operate online gaming and wagering in Portugal, holding 30 licences in total – 13 for sports betting and 17 for games of chance.

### 4.5 Availability of Licences

#### Land-Based Casinos

There is no statutory limit to the number of concessions to be granted; availability depends on the opening of a public tender to that effect. Public tenders are only launched for concession contracts that are already in existence, and

when the respective contracts are approaching their term. As a reference, public tenders for the casino concession contracts for the Estoril/Lisbon and *Figueira da Foz* gaming areas were launched and completed in 2022, with the winning bid belonging in each case to the incumbent operator, and with the new concession contracts awarded being dated 30 January 2023 and 17 March 2023, respectively.

#### Land-Based Bingo Halls

Similar to land-based casinos, there is no limit on the number of concessions to be granted; availability depends on the opening of a public tender to that effect. Public tenders are only launched for the concessions already in existence, and when the respective contracts are approaching their term. As a reference, a public tender for the Lisbon Bingo and the Nazaré Bingo were launched in 2022.

#### Online Gaming Licences

There is no limit to the number of online gaming licences available. Contrary to land-based gaming, an online licence is not subject to public tender and may be obtained by an entity that fulfils all legal requirements following an administrative application process with the SRIJ.

### 4.6 Duration of Licences

#### Land-Based Gaming

The public tender documents will determine the specific duration of the concession contracts and the terms of their extensions. As a reference, the term of the casino concession contract for the Estoril/Lisbon gaming area, tendered in 2022, was 15 years, extendable one time for five additional years.

#### Online Gaming

Online gaming licences are granted for a period of three years from the date of respective issu-

ance. Licences are extendable for equal periods of three years, subject to the operator meeting the legal requirements for extension.

## 4.7 Application Requirements

### Land-Based Casinos

The award of a land-based casino concession contract is carried out by public tender, which may be open or limited to pre-qualified entities. The government cabinet member with the tourism portfolio (normally the Ministry of Economy) is responsible for opening the tender and awarding a concession, and will also determine the tender process, timeline, and documentation, including the concession contract draft. The overview and implementation of the tender is typically delegated to the Gaming Commission, which will appoint a selection committee to analyse the proposals and prepare a report on their feasibility and merits.

The tender documents must define the following:

- the duration of the concession and the possibility of its extension;
- the applicants' qualification criteria and eligibility;
- the geographic location of the casino and the assets allocated to the concession;
- the criteria for awarding the concession;
- the minimum financial consideration, other non-financial consideration (if any), and respective payment terms; and
- the amount and form of the tender and performance bonds to be provided.

In order to participate in a public tender awarding a land-based casino concession, an entity must:

- be incorporated as a joint stock company (*sociedade anónima*), or any equivalent, in an EU member state or any other signatory state to the European Economic Area Agreement under administrative co-operation in the fields of tax, combating fraud, and anti-money laundering – companies not incorporated in Portugal must form and register a local branch;
- have an equity to net assets ratio of no less than 30%; and
- have at least 60% of its share capital represented by shares that allow the issuer to identify the respective holders.

### Online Gaming

The award of an online gaming licence is subject to a licensing process carried out before the SRIJ. A licence application is made through the filing of a pre-approved application form, together with all supporting documents required to demonstrate the fulfilment of eligibility requirements. Applications may be made electronically, and a determination typically takes between six and 12 months.

The main requirements for an applicant to be issued an online gaming licence are as follows:

- the applicant/bidder must be incorporated as a joint stock company (*sociedade anónima*), or any equivalent, in an EU member state or any other state signatory to the European Economic Area Agreement under administrative co-operation in the fields of tax, combating fraud, and anti-money laundering – companies not incorporated in Portugal must form and register a local branch;
- the scope of business of the applicant must include the operation of gaming and wagering, and its equity to net assets ratio must be no less than 35%;

- the applicant must be in good standing in terms of tax and social security obligations;
- the applicant must demonstrate its suitability, financial soundness and technical capability; and
- the applicant must submit the technical plan for its gaming platform, according to best practices in terms of software architecture and technology, and incorporating all elements required by law.

Upon a positive determination being made, the issuance of a licence is conditioned to the following elements:

- certification of the gaming technical system;
- payment of the application fees;
- payment of the performance bonds and guarantees; and
- payment of any overdue penalties (applied under the Online Gaming Law).

## 4.8 Application Timing

### Land-Based Gaming

The timeline for each public tender is defined in the respective tender documents. As a reference, in the 2022 public tender for the award of the casino concession for the Estoril/Lisbon gaming area, a proposal application had to be filed within 60 days of the tender opening and be valid for a period of 180 days.

### Online Gaming

A determination is typically made between six and 12 months after an application is filed.

## 4.9 Application Fees

### Land-Based Gaming

There are typically no application fees. However, the winning bidder must pay the cost associated with the execution of the contract and the respective publication in the official gazette.

### Online Gaming

The applicable licensing fees are as follows:

- certification of the technical gaming system – EUR18,000;
- licence issuance (for each licence) – EUR12,000;
- licence extension (for each licence extension) – EUR12,000; and
- authorisation for each new type of game of chance or wager category – EUR2,000.

Additionally, the bonds required to be given prior to the licence being issued are as follows:

- EUR500,000 to guarantee the applicant's compliance with ongoing legal obligations; and
- EUR100,000 to guarantee the payment of the special gaming tax.

## 4.10 Ongoing Annual Fees

Ongoing annual fees for land-based gaming operators are determined by the respective concession contracts. Typically, a casino concessionaire is required to pay a fixed annual fee and a variable annual fee throughout the duration of its contract.

# 5. Land-Based Gambling

## 5.1 Premises Licensing

Each public tender and concession contract will detail the requirements of the relevant casino premises, namely its standards of functionality and comfort. They will also define the non-gaming facilities that must be offered and the development and maintenance obligations of the operator.

The key statutory requirements applicable to a land-based operator in respect of casino premises are as follows:

- the operation of land-based games of chance is only allowed in one of the statutorily defined gaming areas;
- the casino concessionaires are responsible for the functioning and maintenance of the casino property and of its facilities, particularly the ones that are the property of the state and the usage of which was assigned to the operator under the concession contract;
- the casino concessionaires must promote entertainment, cultural, and sporting activities, and co-operate in initiatives to promote tourism in the respective gaming areas; and
- the casino concessionaires can only use gaming equipment and utensils that are approved by the SRIJ.

Other requirements can be imposed under the tender documents, such as:

- the obligation to install and operate an electronic gaming machines system; and
- the obligation to purchase, install, and operate adequate CCTV equipment.

## 5.2 Recent or Forthcoming Changes

There are no recent or forthcoming legislative changes.

## 6. Online Gambling

### 6.1 B2C Licences

The key statutory requirements applicable to an online operator are as follows:

- to install and maintain a technical gaming system for the operation of online gaming

and wagering, under the terms defined in the Online Gaming Law;

- to redirect to its Portuguese website all accesses that are established from locations within Portuguese territory or that make use of player accounts registered in Portugal;
- to create a registration and account for each player;
- to define a policy for awarding bonuses to players;
- to pay players their prizes in the agreed amount;
- to order the transfer to the payment account pre-indicated and held by the players of the balance of the player's account, following such request made by a player;
- to have a bank account in a credit institution licensed in a member state of the EU, through which all transactions related to online gaming and wagering activity are exclusively undertaken;
- to ensure the integrity, availability, confidentiality, and all other security attributes of online gaming and wagering, providing reliable and transparent play;
- to provide and make available information on the rules of online gaming and wagering in a clear, true, complete, and up-to-date manner, including the acceptable payment methods, the minimum and maximum bet values, and the rules for the calculation and payment of prizes;
- to define a privacy policy, which must be expressly accepted by the player, as well as the purposes of collection and conditions under which it may be disclosed;
- to designate a manager responsible for the operation of online gaming and wagering, who will be the key contact for the SRIJ;
- to ensure compliance with the laws in force regarding the prevention of money laundering and the financing of terrorism;

- to develop and implement means to prevent minors and other socially vulnerable groups from registering as players;
- to co-operate in the combat against illegal gaming and associated illicit activities, namely by complying with the legal preventative provisions; and
- to notify the SRIJ of any change to its governing bodies within ten days.

## 6.2 B2B Licences (Suppliers, Software, Etc)

Only B2C operators are currently subject to licensing.

## 6.3 Affiliates

There is no specific regulation concerning the use of affiliates.

## 6.4 White Labels

There is no specific regulation concerning white labels.

## 6.5 Recent or Forthcoming Changes

There are no recent or forthcoming legislative changes.

## 6.6 Technical Measures

The SRIJ may issue orders to ISPs to block access to websites that offer online gaming in Portugal without a licence. Typically, this action is preceded by a cease-and-desist letter with a 48-hour deadline.

## 7. Responsible Gambling (RG), Also Known as Safer Gambling (SG)

### 7.1 RG Requirements

In respect of land-based gambling, responsible gambling requirements are mostly focused on

access to the gambling floor being restricted for minors and other risk groups, and on exclusion and self-exclusion mechanisms.

Online gambling operators must adopt a responsible gambling programme and implement specific measures to promote responsible gaming, moderate play, and non-compulsive gaming behaviours.

## 7.2 Recent or Forthcoming Changes

There are no recent or forthcoming legislative changes.

## 7.3 Gambling Management Tools

Responsible gaming programmes must include and implement deposit limits, spending limits, and time limits. They must also implement self-exclusion mechanisms.

## 8. Anti-money Laundering (AML)

### 8.1 AML Legislation

Gaming operators are subject to the Anti-Money Laundering Law (Law No 83/2017), which transposes European Union Directive 2015/849.

### 8.2 Recent or Forthcoming Changes

There are no recent or forthcoming legislative changes.

### 8.3 AML Requirements

The key AML requirements applicable to gaming operators are as follows:

- customer due diligence measures;
- record-keeping; and
- reporting of suspicious transactions.

## 9. Advertising

### 9.1 Regulatory/Supervisory Agency

The Portuguese Association for Consumer Protection (*Associação Portuguesa para a Defesa do Consumidor* – DECO) is the entity responsible for overseeing advertisement activities in Portugal, while the SRIJ and the Gaming Commission have special competence to supervise compliance with the rules concerning the advertising of gaming and wagering.

### 9.2 Definition of Advertising

Advertisement is defined as any form of communication made by a private or public entity in the context of a commercial, industrial, or professional activity, with the purpose of, directly or indirectly, promoting:

- goods or services with a view to their marketing or sale; or
- ideas, principles, initiatives, or institutions.

### 9.3 Key Legal, Regulatory and Licensing Provisions

Advertising of gaming is permitted if it complies with the following requirements:

- it is carried out in a socially responsible manner;
- it takes into consideration the need to protect minors, as well as other risk groups;
- it highlights the recreational aspect of the activity and does not diminish non-gamblers;
- it does not imply that gaming brings easy winnings, social advancement, or special skills; and
- it does not promote excessive gaming or wagering practices.

### 9.4 Restrictions on Advertising

There is a series of provisions aimed at protecting minors, such as prohibiting gaming advertisement addressed to minors or using minors. In addition, gaming advertisements cannot be placed inside or within 250 metres of schools or other facilities developed for the use of minors, nor in any events in which minors are the main participants.

The Gaming Commission has also published a best practices handbook for the advertisement of gaming products and services, which recommends that advertisement of gaming should not take place:

- between 07:00 and 22:30 on TV and radio; or
- through websites, social networks, or mobile applications designed to be used by minors.

### 9.5 Sanctions/Penalties

Sanctions resulting from infringement of advertisement laws include:

- monetary fines;
- seizure of objects;
- temporary bans on exercising advertising activities;
- temporary closure of premises or establishments where the advertising activity takes place; and
- the revocation of relevant licences or permits.

### 9.6 Recent or Forthcoming Changes

There are no recent or forthcoming legislative changes.

## 10. Acquisitions and Changes of Control

### 10.1 Disclosure Requirements

Gaming concessionaire must disclose the transfer or pledge of any of its registered shares (which must always represent at least 60% of its share capital) within 30 days of becoming aware of such transfer or pledge.

### 10.2 Change of Corporate Control Triggers

#### Land-Based Concession Agreements

An acquisition of shares representing more than 10% of the share capital of a casino concessionaire or which directly or indirectly causes a change in control of the concessionaire requires government approval. The same requirement applies to the assignment to a third party of the gaming operations or other material rights and obligations of the concessionaire under its concession contract.

In addition, tender documents may prevent or limit direct or indirect participation in the share capital of a concessionaire by another concessionaire, and impose obligations of pre-approval in the case of a merger, demerger, or conversion of the concessionaire.

#### Online Gaming

An online gaming licence may only be transferred to a third party with the pre-approval of the SRIJ, including in the event of a merger or demerger, as well as a direct or indirect transfer of shares of the licensee, whereby the acquiring entity comes to hold a majority stake in its share capital, or to hold more than half of its voting rights or the ability to appoint more than half the members of the board of directors.

### 10.3 Passive Investors Requirements

There are no specific requirements for passive investors in acquisitions or changes of control, without prejudice to the competition law.

## 11. Enforcement

### 11.1 Powers

The SRIJ is the entity responsible for supervising casino concessionaires, online gaming licensees, gaming employees, and gamblers. It has the power to conduct investigations and to initiate administrative and misdemeanour proceedings against such entities and individuals, in the event of breach of gaming laws and regulations or of the terms of the respective licence or concession contract. The Gaming Commission has the power to issue determinations in respect of the administrative and misdemeanour proceedings initiated by the SRIJ, and apply sanctions.

Unlawful gaming activities that may constitute a criminal offence must be reported by the gaming regulatory authorities to the police or the public prosecution for investigation.

### 11.2 Sanctions

The Gaming Commission can apply sanctions in the form of financial penalties, and can also suspend or revoke online gaming licences. The suspension or revocation of land-based gaming concession contracts can only be determined by the government's cabinet of ministers.

### 11.3 Financial Penalties

Financial penalties for breach of provisions of the Gaming Law vary between EUR12,500 and EUR25,000. Financial penalties for breach of the Online Gaming Law vary between EUR2,500 and EUR50,000.



## 11.4 Personal Sanctions

The Gaming Law prescribes that whoever, by any means, operates land-based gambling outside the legally authorised venues may be punished with imprisonment of up to two years.

In respect of online gaming activities, the Online Gaming Law prescribes that whoever, by any means and without being duly authorised, operates, promotes, organises or consents to the operation of online gaming or wagering, or makes their practice available in Portugal from servers located outside of the country, may be punished with imprisonment of up to five years.

## 12. Tax

### 12.1 Tax Rate by Sector

#### Land-Based Gaming

Land-based casino games are subject to a special gaming tax (IEJ), levied over the monthly opening float (not gross revenue). The tax rate varies according to the geographic gaming area where casinos are located.

In addition, a casino concessionaire must pay a financial consideration under the terms of the respective concession contract. In the case of the Estoril/Lisbon concession (awarded pursuant to a contract dated 30 January 2023, published in the second series of the official gazette of 20 February 2023), this consideration is composed of a fixed consideration of no less than

approximately EUR15 million and a variable consideration of 50% of the gross gaming revenue (but never less than EUR56.5 million). Both considerations are determined with reference to the year 2022 and updated annually according to Portugal's consumer price index. The payment of the variable consideration discharges the obligation to pay the special gaming tax (in the amount that does not exceed such consideration) and other government fees.

#### Online Gaming

Online gaming is subject to a special online gaming tax, applicable as follows:

- games of chance and pari-mutuel betting on horse races – fixed tax rate of 25% levied on gross gaming revenues;
- fixed-odds sports betting and fixed-odds horse racing betting – fixed tax rate of 8% over the handle (total amount of money wagered); and
- sports betting exchange (where players bet against each other) – fixed tax rate of 35% over the commissions charged by the operator.

## 13. Anticipated Reform

### 13.1 Anticipated Reform

No legislative reform is expected in land-based or online gaming.

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