

# Malta Gaming Authority introduces new regulations for Skill Games

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New regulations (the “Regulations”) applicable to skill games published by the Malta Gaming Authority (the “Authority”) provide that all skill games organised in Malta, provided from the territory of Malta or promoted or offered to persons in Malta shall be regulated with the burden of proving that an activity is a skill game resting on the party operating or promoting such an activity.

## **How do the Regulations define a skill game?**

A skill game has been defined by the Regulations as a game for money or money’s worth and through means of distance communication, the result of which is determined of the use skill alone or predominantly by the use of skill and is operated as an economic activity, but does not include a sport event.

## **What is the purpose of these new skill games Regulations?**

The regulations have been issued with a view to ensure that:

- a) the skill games are subject to risk-based regulatory intervention, where this is necessary in the public interest, and that such regulatory intervention is proportionate, consistent and non-discriminatory;
- b) skill games are conducted in a fair and transparent manner and that the sector is kept free from crime;
- c) the interests of all consumers are adequately safeguarded and proper controls are in place to protect minors and other vulnerable persons; and
- d) all other relevant objectives listed in the Act are fulfilled.

## **What are the criteria which the Authority shall take into consideration in classifying a game?**

The criteria which the Authority shall take into consideration in determining whether a game is a skill game or a controlled skill game shall include the following:

- a) the presence of random draws and their effect on the outcome;
- b) whether the game is played for money and, or prizes with a monetary value;
- c) whether participation in a game involves any form of monetary commitment, or commitment of a monetary value;
- d) the possibility of any negative social impact of the game;
- e) whether the activity is closely associated with games of chance and/or gambling;
- f) the duration of each event, competition or match;
- g) whether, on the face of it, a skilled player is able to win more than an unskilled player;
- h) whether a player’s chance of winning is significantly increased by experience in playing the game;
- i) whether skill can be acquired through training, experience, reading literature or other educational material;
- j) whether a rule-set or format that is used further nullifies the effect of any element of chance;

- k) whether the game is played against other human players, or otherwise;
- l) the level of interaction between the players, the level of interaction between the operator and the players, and the level of intervention by the operator during the event, competition or match; and
- m) the complexity of the game, including the amount of player choices and their potential effect on the outcome, and the strategies involved.

The Authority has the discretion to determine, basing itself on any one or more of the above criteria, whether an activity is more akin to a game of chance or a game of chance and skill than to a skill game, and can therefore exclude an activity from falling within the parameters of the skill games Regulations.

### **What do I need to know about the application process for a skill games license?↴**

Applicants for a skill games license who already hold a Class 3 license, or a corresponding Class 4 license issued by the MGA in terms of the Remote Gaming Regulations, would not require to duplicate the administrative requirements in terms of the regulations that have already been satisfied by the same applicant and furthermore such applicant is exempt from the annual license fee.

An applicant for a license must be able to satisfy the Authority that an activity which it intends to offer under a license issued in terms of the regulations is a skill game and the Authority shall examine the documentation submitted, including any studies, research, rulings or certification submitted by an applicant prior to making such a determination.

A licensee in terms of the skill games Regulations is required to appoint and maintain at least one key official throughout the duration of the license term, and such appointment has to be approved by the Authority.

### **What is the application and annual license fee for skill games?**

A non-refundable application fee of €2,300 applies and the annual license fee is of €8,500 per annum.

### **Will skill games be subject to gaming taxation?**

The rate of taxation imposed by the Regulations is that of 5% of real income. Real income shall be construed as total wages less total monies paid out to players. The maximum tax payable annually by a single controlled skill game operator shall not exceed €466,000.

### **When should the gaming taxation be paid?**

The tax due shall be paid to the Authority monthly, and by not later than the twentieth (20<sup>th</sup>) day of the following month.

### **Will this affect my VAT position?**

The VAT Authorities have not yet issued any statement on how the new Regulations will affect the VAT position of those having an activity classified as a skill game.

The current VAT Act provides for an exemption without credit for supplies related to gambling as may be approved by the Minister. On the other hand, certain gaming activities provided over the internet may also qualify as electronically supplied services which will have a different VAT treatment.

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