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Macau

GAMBLING LAW

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This country-specific Q&A provides an overview of gambling law laws and regulations applicable in Macau.

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MACAU

GAMBLING LAW



1. What is the legal definition of gambling?

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

Other forms of gambling statutorily defined include:

- “Operations offered to the public”, defined as those in which the expectation of winning lies exclusively on chance (e.g., lotteries, raffles, and lucky draws).
- “Pari-mutuel betting”, defined as a form of betting on animal races or sports competitions in which the winners divide the pool of wagers among themselves (deducted from commissions, fees, and taxes) in proportion to the amount individually bet.
- “Interactive Gambling” (i.e., online gaming), defined as the play of games of chance that meet the following criteria:
 - i. offer a prize, in cash or in kind, that can be won in accordance with their respective rules;
 - ii. players participate by means of telecommunications (including telephone, fax, the internet, data networks and video or digital data transmission) and make, or agree to make, payments in cash or in kind to play the game; and
 - iii. they are offered in Macau casinos in the form of table games or gaming machines.

2. What legislation applies to gambling?

Please provide a summary of the legal/regulatory framework.

The main legislation regulating gambling in Macau is Law 16/2001, as amended by Law 7/2002 (the “Gaming Law”), which sets out the legal framework for the commercial operation of different gambling products,

with a particular focus on the commercial operation of casino games of chance.

Other relevant legislation applicable to gambling includes:

- the Instant Lottery Law (Law 12/87/M), which governs the concession and operation of instant lotteries.
- the Horse Racing and Pari-mutuel Betting Regulation (Order 163/90/M).
- the Illegal Gambling Law (Law 8/96/M), which criminalizes the unlicensed supply of gambling.
- the Illegal Animal Racing Law (Law 9/96/M), which criminalizes certain actions and behaviours in respect of horse racing wagering.
- the horse racing online wagering instruction (Dispatch of the Secretary for Economy and Finance 63/2003).
- the Gaming Credit Law (Law 5/2004), which regulates the granting of credit for gambling by casino operators and gaming promoters.
- the Gaming Promoters Commissions’ Regulation (Regulation 27/2009), which imposes certain limitations on the commissions paid to gaming promoters.
- the Gaming Promoters’ Regulation (Regulation 6/2002), subsequently amended by Regulation 27/2009, which governs the licensing and activities of gaming promoters (also known as “junkets”).
- the Electronic Gaming Machines (“EGMs”) Regulation (Regulation 26/2012), which regulates the supply of electronic gaming machines, equipment and systems and sets out the licensing framework for EGM manufacturers and suppliers;
- the Gaming Participation Law (Law 10/2012), subsequently amended by Law 17/2018, which regulates the conditions of entry, working and gambling in casinos.
- the By-laws of the Gaming Inspection and

Coordination Bureau Macau (“DICJ”) (Regulation 19/2021).

- the Public Tender Regulation for the award of casino concession contracts (Regulation 26/2001, subsequently amended by Regulations 34/2001, 4/2002 and 28/2022), which sets out the rules applicable to the public tender procedure to award concession contracts for the operation of casino games of chance, the requisites of the concession contracts, the suitability and financial capacity requirements of the bidders and concessionaires and the process to verify such requirements.
- the bylaws of the Specialized Commission for the Gambling Sector (CE Dispatch 38/2010 and Regulation 32/2022), which is the body responsible for assisting the CE in defining gaming policy.
- the CE dispatch that (i) determines the maximum number of total gaming tables and EGMs allowed to be operated in Macau (CE Dispatch 161/2022) and the ones that (ii) determines the minimum annual gross gaming revenue of each gaming table and each EGM (CE Dispatch 162/2022) for the purposes of calculating the special premium to be paid by a casino concessionaire in a given year, if any.

Additionally, the DICJ issues instructions (including some that are not publicly available) that are binding on the entities that it supervises, including:

- casino concessionaires.
- gaming promoters.
- the sports betting concessionaire.
- the horse racing concessionaire.
- lottery concessionaires.
- casino management companies.
- EGM manufacturers and suppliers.

Relevant instructions of the DICJ include those addressing:

- technical standards for ETGs (Instruction 2/2014).
- anti-money laundering and counter-terrorism financing (Instruction 1/2016), amended by Instruction 1/2019.
- Macau jackpot and casino management system technical standards (Instruction 2/2016).
- dealer operated ETG technical standards Version 1.0 (Instruction 1/2017).
- card shufflers and electronic card shoes

(ECS2) technical standards version 1.0 (Instruction 5/2019).

- Macau gaming certificate format (ECS2) Version 1.0 (Instruction 1/2020);
- technical standards for EGMs (Instruction 1/2021).
- gaming promoters’ activity; in particular, regarding prohibitions on performing settlement transactions unrelated to Macau or the use of Macau as a settlement platform for foreign transactions and other limitations.
- data protection matters related to restrictions on the transfer of players’ personal data to third parties, or any entity in or outside Macau, which are imposed on casino concessionaires and gaming promoters.

3. Which body/ies regulate gambling?

The Macau Chief Executive (CE) is the ultimately authority responsible for:

- determining gambling policy; and
- licensing and regulating gambling activities in Macau.

The CE is assisted by the Specialized Commission for the Gambling Sector, which is the body responsible for studying the development of the gaming sector and for providing support to the CE in defining gaming policy and regulation and in proposing supervisory measures and other guidelines for the gaming sector.

DICJ is the regulatory body responsible for the oversight of all forms of permitted gambling. It operates under the Secretary for Economy and Finance (the “SEF”). DICJ is responsible for the regulation, supervision, and coordination of all gambling operations and activities. DICJ is also responsible for assisting in defining and executing economic policies for the gambling industry.

4. Are licences available? If so: a) What is the duration of a licence? b) What types of licences are available? c) Are there different types of licences for B2C and B2B operators? d) Do software suppliers need to be licensed?

Upon the latest amendment to the Macau Gaming Law (enacted in 2022), the maximum duration of the casino concession contracts decreased from 20 years to 10 years. If granted for a lesser period, the concession may be extended, one or more times, up to a maximum of 10 years. The maximum duration of a concession may be

extended beyond the 10-year term, one or more times, for a maximum of 3 years. This extension may only be granted on an exceptional basis under a justified decision of the CE.

Licences are not readily available in Macau. The commercial operation of gambling in Macau is statutorily reserved for the Macau government. To offer any of the legally allowed gambling products in Macau, a private entity must be granted a concession to that effect, by entering a contract with the Macau government.

• **Casino Gambling**

A concession for the operation of games of chance in casino may only be awarded following a public tender launched by the CE. In July 2022 a public tender was opened to award 6 concession contracts. It is expected that, such contracts be awarded for a 10-year duration, commencing on January 1, 2023, and ending on the 31st of December 2032.

• **Sports Betting**

Betting on football (soccer) and basketball is offered, on a non-exclusive basis, by only one operator, Sociedade de Lotarias e Apostas Mútuas de Macau (SLOT). The sports betting concession contract is due to expire on 5 June 2024.

• **Horse Race Betting**

Betting on horse races is offered on an exclusive basis by the Macau Horse Racing Company Limited (MJC). The concession for horse races betting ends on 31 August 2042.

• **Lottery**

The operation of lotteries in Macau is permitted both in the form of instant lottery and in the form of a Chinese lottery (popularly known as “pacapio”). Instant lotteries are operated on a non-exclusive basis by SLOT. The Chinese lotteries are operated on an exclusive basis by Sociedade de Lotarias Wing Hing, Limitada (Wing Hing). The concession contract for the operation of the Chinese lotteries has been renewed on an annual basis since 2010 with the current term ending on 31 December 2022.

There are B2B licenses for the manufacturers and suppliers of electronic gaming machines and systems.

No, except for software imbedded in gaming machines and systems which need to be tested by designated labs and approved by DICJ.

5. Are any types of gambling products prohibited?

Only gambling products that are pre-approved are allowed to be offered. All other gambling products are prohibited until expressly approved by the relevant authority. The gambling products that are currently allowed to be offered are the following:

Casino games of chance

A casino concessionaire may only offer games of chance that have been pre-approved by the SEF. The following is the current list of games of chance that may be offered in Macau casinos:

- 3-card baccarat;
- baccarat;
- blackjack;
- baccarat “chemin de fer”
- boule;
- craps;
- cussec;
- casino war;
- dozen numbers;
- fantan;
- sap i chi or 12-card game;
- 13-card game;
- mahjong;
- mahjong baccarat;
- mahjong paikao;
- mini paikao;
- pachinko;
- paikao;
- fish-prawn-crab;
- 3-card poker;
- 5-card poker;
- football poker;
- Q poker;
- lucky wheel;
- roulette;
- stud poker;
- super pan 9;
- taiwan paikao;
- makccarat;
- texas hold ‘em poker;
- fortune 3-card poker;
- fortune 8;
- dragon/phoenix; and
- omaha poker.

Horse Racing

Macau allows betting on horse races. This activity can only be operated by entities that have been previously granted a concession to that effect. The licensing and

operations of horse race betting are governed by several dispatches issued by the CE and by the relevant concession contract with the MJC. This activity has been historically pursued on an exclusive basis by MJC. The concession contract of MJC will end on 31 August 2042. The MJC is authorised to accept wagers over the counter, through telephone and online through its website.

Sports betting

Macau also allows the placing of bets in sports competitions, which, at this point, includes only football (soccer) and basketball. SLOT is authorised to accept wagers over the counter, through telephone and online through its website.

Slots and other gaming machines

A gaming machine is statutorily defined as a device (including the gaming programs and associated software, the memory compartment, the random generator and any means of gaming software storage) that is both:

- Fully or partially operated by electric, electronic or mechanical means.
- Conceived, adapted or programmed to operate a game of chance and to pay prizes (in cash, gaming chips, redeemable tickets or other values) resulting from the placement of wagers in the games that it offers.

The operation of gaming machines, including electronic table games, is only allowed within the gaming areas of casinos and other authorised premises operated under a casino concession. The operation of gaming machines can also be authorised in the international departures area of the Macau International Airport and in Macau registered vessel and aircraft when operating tourist routes outside Macau.

All gaming machines and electronic table games must be authorised by the DICJ. They must also comply with the Macau Electronic Gaming Machines and Electronic Table Games Technical Standards, and compliance must be certified by a recognised gaming testing laboratory.

Only manufacturers or distributors previously licensed by DICJ can supply or distribute gaming machines in Macau.

Terminal-based gaming

Terminal-based devices qualify as gaming machines, as they require prior approval from the DICJ, and can only be supplied by licensed manufacturers or distributors. Fully automated table games can be offered at the same locations as gaming machines, while semi-automated

table games are only allowed in casinos.

Lottery

The operation of lotteries in Macau is allowed both in the form of instant lottery and in the form of Chinese lottery (popularly known as Pacapio). Instant lotteries are operated by SLOT under the same concession contract that grants SLOT the exclusive right to operate sports betting. The Chinese lottery is also operated on an exclusive basis by Wing Hing.

6. What is the headline application procedure? Please include any eligibility and other application requirements, including approximate application costs and any need to establish a local presence.

Only joint-stock companies (*sociedades anónimas*) incorporated under the laws of Macau with a minimum share capital of MOP5 billion (approximately US\$620 million) are eligible for the award of a casino concession contract. At least 15% of the share capital of a casino concessionaire must be held by its managing director (*administrador-delegado*), who must be a permanent resident of Macau.

A casino concession contract may only be granted to a private entity following a public tender process. A public tender for the award of a maximum of 6 contracts was opened in July 2022. A tender commission, appointed by the CE, is responsible for overseeing the public tender and to produce the final report that will support the CE's decision on the award of the concession contracts.

The Public Tender Regulation, the tender opening dispatch (issued by the CE) and the tender programme are the key documents that define, amongst others: (i) the tender process, (ii) the eligibility criteria and the information that must be disclosed by the bidders, (iii) the proposal elements and requisites, (iv) the awarding criteria, (v) the terms and duration of the concession contracts and (vi) the amount and form of the tender bond.

In the context of an application, the bidding company, its directors, and key employees, as well as the companies or individuals holding 5% or more of its share capital ("Qualified Shareholders"), are subject to a suitability investigation aimed at assessing experience, reputation, probity and financial soundness.

According to the tender programme, the following criteria should be taken into consideration when selecting the bidders and evaluating their proposals:

- Proposed variable premium.
- Plans for attracting foreign players.
- Experience in the operation of casino games of chance.
- Relevance of the proposed investment plans in gaming and non-gambling.
- Casino management plans.
- Proposal to monitor and prevent illegal activities in casinos.
- Corporate social responsibility program.

Application Fees

The bidders must provide a security deposit for admission to tender in the minimum amount of MOP10 million (about US\$1,240,000). The costs incurred in the probity check and financial background investigations required during the bidding process, will be deducted from the security deposit.

7. Do individuals within the business need to be personally licensed or authorised? If so, please provide headline requirements.

The directors and key employees of a casino concessionaire, as well as an individual that is a Qualified Shareholder (holding 5% or more of the share capital of a concessionaire) are subject to a suitability check when taking on the respective role and throughout its duration. A suitability check entails the verification of:

- a. The way the individual conducts its business affairs.
- b. The economic and financial soundness of the individual.
- c. The source of funds and the existence of suspicious transactions.
- d. The criminal record of the individual, namely if he/she has been charged or convicted of a crime punishable with imprisonment of three years or more.

Moreover, the DICJ may, whenever it deems necessary, conduct a suitability check to any indirect Qualified Shareholder, to any employee of the casino concessionaire, as well as to any entity or individual that cooperate with the concessionaire or that participates in the operation of its gambling activities.

8. Is advertising of gambling permitted and, if permitted, how is it regulated?

The key legislation regulating gambling in Macau is the Advertising Law (Law 7/86/M). The Advertising Law prohibits any type of marketing activity that depicts

games of chance or their play as the essential elements of the advertisement. In addition, casino concessionaires may only publicise any activities related to the play of games of chance within the gaming areas of casinos.

The prohibition of gaming advertising is complemented by a set of instructions issued by the Macau Economic Services of "MES" (the government agency responsible for supervising and enforcing the Advertisement Law).

These instructions are interpretative of the scope and extent of the prohibition. They detail the types of advertising activities that are considered to fall under the prohibition by the MES and provide practical examples of such activities. The prohibition applies to all types of marketing conducted in Macau and encompasses games of chance played both offline and online. However, it does not appear to cover other forms of gambling, such as sports betting and lotteries.

A breach of the provisions of the Advertising Law is punished with monetary fines ranging between:

- MOP2,000 and MOP12,000 for individuals (about US\$250 and US\$1,500); and
- MOP5,000 and MOP28,000 for corporations (about US\$620 and US\$3,500).

9. Are marketing affiliates permitted? If so, are they licensed or regulated?

Gaming promoters (known as "junkets") are permitted, subject to licensing. Gaming promotion is regulated and statutorily defined as the granting of facilities to players, such as transportation, accommodation, food and beverage and entertainment, in return for a commission paid by a casino concessionaire.

10. What are the penalties for offering, facilitating or marketing unlawful gambling, and can the gambler be penalised for participating in unlawful gambling?

The Illegal Gaming Law (Law 8/96/M) criminalises the unlicensed supply of games of chance. It prohibits all forms of operation, promotion, or facilitation of gaming by unlicensed entities or individuals, or outside the areas that have been approved as casinos or gaming areas. It also criminalizes fraudulent gaming in approved areas and the extension of credit to players by unlicensed entities or individuals.

Depending on the specific crime, penalties vary from monetary fines to imprisonment of up to eight years.

Ancillary penalties include prohibition from entering casinos, apprehension, and reversion to the government of all gaming equipment, monies and other items of value used for the illegal gaming operation.

The Illegal Gaming Law also qualifies certain actions and behaviours as misdemeanours, the penalties for which can go from MOP300 up to MOP10,000 (about US\$40 and US\$1,240).

Law 9/96/M criminalises offences related to animal races. Depending on the specific crime, penalties vary from fines to imprisonment for up to three years.

11. Briefly detail key requirements for licensees.

In conducting its gambling operations, a casino concessionaire is required to:

- operate gambling only in areas authorized for that purpose by the CE; and it may only install, increase, or reduce the number of gaming tables and electronic machines in each casino as approved by the SEF.
- designate and identify the following areas within a casino: (i) gaming area; (ii) cashier; (iii) entries, exits and surveillance and control areas; (iv) areas for transportation, deposit, storage and custody of gaming chips and cash; (v) counting rooms; (vi) areas for other logistical services as required under the concession contracts.
- maintain and assure the proper functioning of its casinos and all its facilities, including employee's facilities.
- install electronic surveillance and control equipment according to DICJ's instructions and keep all records for a minimum period of 60 days.
- comply with all instructions from DICJ, including with the instructions in respect of minimum internal controls, surveillance, and responsible gaming.
- cooperate with DICJ and the tax authorities, including by allowing access to casino premises for inspection and by making available any required documents, information, data, and evidence.

12. Briefly detail key anti-money laundering requirements.

The current anti-money laundering legal framework was introduced by Law 2/2006 (amended by Law 3/2017) and

further complemented by Regulation 7/2006 (amended by Regulation 17/2017). The application of this legislation to the gaming industry is set out in DICJ Instruction 1/2016 (subsequently amended by Instruction 1/2019).

Under the applicable anti-money laundering regulations, casino concessionaires, gaming promoters and other gaming concessionaires must comply with a comprehensive set of obligations aimed at preventing money laundering activities within the gaming sector. These include:

- Customer due diligence obligations.
- Enhanced monitoring of the play by politically exposed persons.
- Identification and reporting of suspicious transactions.
- The refusal of transactions when mandatory information is not provided.
- Record-keeping obligations.

The Macau Financial Intelligence Office is the entity responsible for receiving and processing reports on cash transactions and suspicious transactions. The DICJ is responsible for supervising and enforcing the gaming industry's compliance with its anti-money laundering obligations.

13. Briefly detail key responsible gambling (or safer gambling) requirements.

The Gaming Participation Law establishes the legal framework for entering, working in, and playing, at a casino, by:

- imposing the minimum age of 21 years old to enter or work in a;
- providing for a self-exclusion and a third-party exclusion programme; and
- addressing the issue of the winnings of individuals not allowed to play.

It also prescribes that the employees of a casino concessionaire, when off duty, are prevented from entering casinos. This restriction extends to certain employees not directly involved with gaming operations, such as food and beverage outlet workers, cleaning, and surveillance personnel.

Casino concessionaires must set up adequate control procedures to ensure compliance with the statutory restrictions on participation, while the DICJ has implemented self-exclusion and third-party exclusion procedures

Casino concessionaires must also develop their own responsible gaming program and periodically revise and improve it. These responsible gaming programs must include, amongst others, measures to promote responsible gaming behaviours, to assure compliance with exclusion measures, to set up a working group to provide support to problem gamblers and to promote training and support to employees.

14. Briefly detail shareholder reporting and approval threshold(s).

A casino concessionaire or a shareholder holding 5% or more of its share capital (a "Qualified Shareholder") must obtain a pre-authorization from the Secretary for Economy and Finance for the following:

- Transferring or encumbering the concessionaire's shares or rights relating to these shares.
- Assigning voting rights or other shareholding rights.
- Transferring any real estate property of the concessionaire or any of the concessionaire's credits above a threshold to be defined in the respective concession contract.
- Entering credit facilities or similar agreements in excess of a threshold to be defined in the respective concession contract.

Moreover, there are statutory limitations to cross-shareholdings. A casino concessionaire, as well as a Qualified Shareholder, are prohibited from directly holding any shares of another casino concessionaire, and from indirectly holding 5% or more of the share capital of another casino concessionaire.

A casino concessionaire must also inform DICJ whenever any of its Qualified Shareholders: (i) is, or becomes, publicly listed; and (ii) is, or will be, operating casino games of chance in another jurisdiction.

15. Briefly detail the regulator's enforcement powers, including sanctions.

The DICJ is the body responsible for the enforcement of laws and regulations governing the activities of gaming concessionaires. In performing such duties, DICJ has public authority powers and may request the support of police agencies and other government bodies. DICJ may open investigations, present charges and apply sanctions to gaming concessionaires, casino management companies, gaming promoters and other entities and individuals under its supervision, in respect of breaches of their legal and regulatory obligations,

including breaches of DICJ's own instructions and guidelines.

The DICJ may apply monetary fines as well as other ancillary sanctions such as the temporary closure of gaming areas. DICJ's decisions are appealable to the SEF. The powers to suspend, terminate or take over (temporarily or definitively) a gaming concession, including by breach of law or contract, lie solely with the CE.

16. What is the tax rate?

Casino concessionaires are subject to a special gaming tax, levied over their gross gaming revenue at a rate of 35%. In addition, casino concessionaires are also subject to the following mandatory contributions:

- 2% of gross gaming revenue to a state-run foundation, responsible for the promotion, development and research in the areas of culture, science, social studies, economics, education, academia and philanthropy; and
- 3% of gross gaming revenue for urban development, tourism promotion and social security.

Although casino concessionaires are legally subject to profit tax (locally named complementary tax), they have historically been exempted from paying it under an order of the CE, issued under the provisions of the Gaming Law.

17. Are there any proposals for changing gambling laws and regulations in the next 12-24 months? If so, please provide an overview of the proposed changes and likely timing.

There is currently a bill under the discussion at the Macau Legislative Assembly entitled the "Legal Framework for Operating Games of Chance in Casinos" (the "Bill").

The Bill aims to regulate the activity of those involved in the operation of casino games of chance – including concessionaires, gaming promoters ("junkets"), collaborators (sub-agents), and casino management companies – as well as implement an improved mechanism for verifying their suitability and supervision.

The bill is expected to be enacted by the end of 2022 or beginning of 2023.

18. What key regulatory developments are proposed or on the horizon in the next 12-24 months?

In addition to the enactment and implementation of the “Legal Framework for Operating Games of Chance in Casinos”, we expect the next 12 months to be shaped by the outcome of the public tender for the award of (six) casino concession contracts, for which there are seven bidders.

The new contracts are likely to be executed between the government and the awardees until the end of 2022. They are expected to have a 10-year duration, starting from January 1st, 2023, and will introduce new terms and obligations for the operation of casino games of chance in Macau.

Importantly, the new concession contracts are expected to introduce significant investment obligations from the casino concessionaires, particularly in non-gaming amenities and attractions. These investments, together with potential incentives to attract tourists from markets other than mainland China, may contribute to re-shaping Macau’s business model towards a more leisure-oriented offer, appealing to a wider demographic of tourists.

19. Do you foresee any imminent risks to the growth of the gambling market in your jurisdiction?

The Macau gaming industry was significantly impacted by the COVID-19 pandemic and by the tightening of travel and border policies. These measures, albeit very successful from a public health perspective, have drastically reduced the number of visitors to Macau and the region’s gross gaming revenues. While travel restrictions remain in place there will be uncertainty as to when the gambling market may resume a growth trajectory. In September 2022, it was announced that the package tours and the issuance of eVisas under China’s Individual Visa Scheme to Macau would be reinstated. The effective implementation and success of these initiatives may provide a much-needed respite to the city’s gaming and tourism industry.

20. If a gambling start-up was looking for a jurisdiction in which to commence its activities, why would it choose yours?

Despite being one of the largest gaming markets globally, Macau has been lagging in what respects the digital transformation of the industry. Technologies such as cashless payments, digital wallets, land-to-digital products, on-premises mobile, etc. are not yet deployed on the Macau gaming floors and integrated resorts. While the adoption of most such technologies requires a favourable legal and regulatory framework, we believe the opportunities for gambling start-ups in these areas are immense and will start to reveal themselves in the next two to three years.

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