Gaming in Macau: overview

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A Q&A guide to gaming in Macau.

The Q&A provides a high level overview of the legislative framework of gambling regulation; the regulatory authorities; gambling products; land-based gambling; regulation and licensing; online gambling; B2B and B2C operations; mobile gaming and interactive gambling; social gaming; gambling debts; tax; advertising and developments and reform.

To compare answers across multiple jurisdictions, visit the Gaming Country Q&A Tool.

This Q&A is part of the global guide to gaming law. The gaming global guide serves as a starting point for understanding the regulatory framework of land-based and online gaming. For a full list of jurisdictional Q&As visit *global.practicallaw.com/gaming-guide*.

Legislative framework of gambling regulation

Overview

1. What legislation applies to gambling?

The main legislation regulating gambling in Macau is the Macau Gaming Law (Law 16/2001). The Macau Gaming Law 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 include the:

- Instant Lottery Law (Law 12/87/M), which governs the concession and operation of instant lotteries.
- Illegal Gaming Law (Law 8/96/M), which covers the unlicensed supply of games.
- International Gaming Tender Regulation (Regulation 26/2001) (subsequently amended by Regulations 34/2001 and 4/2002), which sets out the rules applicable to the international public tender procedure that the Macau Government followed to award the existing concessions for the operation of casino games of chance.

- 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".
- Bye-laws of the Gaming Inspection and Co-ordination Bureau (*Direcção de Inspecção e Coordenação de Jogos*) (DICJ) (Regulation 34/2003), which is Macau's gaming regulator.
- Gaming Credit Law (Law 5/2004), which regulates the granting of gaming credit by casino operators and gaming promoters.
- Junket Commissions Regulation (Regulation 27/2009), which imposes certain limitations on the commissions paid to gaming promoters.
- Gaming Participation Law (Law 10/2012) (subsequently amended by Law 17/2018), which regulates the conditions of entry, working and gaming at casinos.
- Electronic Gaming Machines (EGMs) Regulation (Regulation 26/2012), which regulates electronic gaming machines and systems and other gaming equipment and sets out the licensing procedures for EGM manufacturers and suppliers.

Additionally, the DICJ issues instructions that are binding on the entities that it supervises, including:

- Casino concessionaires.
- Sports betting concessionaires.
- Horse racing concessionaires.
- Lottery concessionaires.
- Gaming promoters.
- Casino service providers.
- EGM manufacturers and suppliers.

Relevant instructions of the DICJ include those addressing:

- Technical standards for EGMs and electronic table games (Instruction No. 2/2014).
- Anti-money laundering and counter-terrorism financing (Instruction No. 1/2016) (amended by Instruction No. 1/2019).
- Macau Jackpot Technical Standards (Instruction No. 2/2016).
- Dealer-operated electronic table game technical standards version 1.0 (Instruction No.1/2017)

The commercial operation of gambling in Macau is statutorily reserved to the Macau Government and can only be pursued by privately owned entities that have been granted a concession to that effect, by entering into a concession contract with the Macau Government. Therefore, the relationship between the Macau Government and the various gambling concessionaires is also governed by the terms of their respective concession contracts, which represent a key element of Macau's legal gaming framework. Following some modifications to the concession contracts, the Macau Government has authorised the gaming concessionaires to enter into one sub-concession contract each.

Definitions of gambling

2. What is the legal definition of gambling in your jurisdiction and what falls within this definition?

General definition

There is no general statutory definition of gambling in Macau. However, the Macau Gaming Law (Law 16/2001) defines games of chance as those in which the outcome is contingent, as it depends exclusively or predominantly on a player's luck.

The Macau Gaming Law also defines pari-mutuel betting as a form of betting on animal races or sports competitions in which the winners divide the pool of bet among themselves (minus commissions, fees and taxes) in proportion to the amount individually bet. The Macau Gaming Law generally refers to other gambling products as "operations offered to the public", which are defined as those in which the expectation of winning lies exclusively on chance (for example, lotteries, raffles and lucky draws).

Online gambling

Interactive games are games of chance that meet the following criteria (Macau Gaming Law):

- They are offered in Macau casinos in the form of table games or gaming machines.
- They offer a prize in cash or in kind that can be won in accordance to their respective rules.
- Players participate by means of telecommunications (including telephone, fax, internet, data networks and video or digital data transmission).
- Players make or agree to make payments in cash or in kind to play the game.

Land-based gambling

There is no statutory definition of land-based gaming. However, land-based gaming generally refers to the commercial operation of casino games of chance, (either in the form of table games or gaming machines), or to other legal forms of gambling, where players physically place their bets or wagers in locations previously authorised for this purpose by the Government of Macau.

Regulatory authorities

3. What are the regulatory or governmental bodies that are responsible for supervising gambling?

The Macau Chief Executive is the Macau Government authority that is ultimately responsible for:

- Determining the gambling policy.
- Licensing and regulating the operation of casino games of chance and other gambling activities in Macau.

In exercising these powers, the Macau Chief Executive is assisted by the Gaming Inspection and Co-ordination Bureau (*Direcção de Inspecção e Coordenação de Jogos*) (DICJ). In its role as a policy advisory body, the DICJ is responsible for assisting the Macau Chief Executive in defining, co-ordinating and executing economic policies for the gaming industry.

Additionally, the DICJ has licensing powers and is responsible for licensing:

- Gaming promoters.
- Gaming equipment manufacturers.
- Gaming machines, systems and other gaming equipment.

The DICJ also advises the Macau Government in authorising and classifying premises as casino venues.

In its supervisory role, the DICJ is responsible for:

- Overseeing the activities of gaming concessionaires, gaming promoters and gaming equipment manufacturers.
- Monitoring their suitability and financial capacity, and the suitability of their qualified shareholders, directors and key employees and agents.

The DICJ can impose sanctions for breach of the regulatory requirements.

Gambling products

4. What gambling products have been specifically identified by legislation, and what different requirements have been established for each?

The Macau Gaming Law (Law 16/2001) identifies the following types of gaming products:

- Games of chance (including casino table games and electronic gaming machines).
- Interactive games.
- Betting (on sports competitions and animal races).
- Operations offered to the public (such as lotteries, raffles and lucky draws).

Poker

Poker qualifies as a casino game of chance (see below, Casino games). The authorised games of poker are:

- 3-Card Poker.
- 5-card Poker.
- Football Poker.
- · Q Poker.
- Stud Poker.
- Texas Holdem Poker.
- Fortune 3-Card Poker.
- Omaha Poker.

Betting

Macau allows betting on horse races. This activity can only be operated by entities that have been previously granted a concession to that effect. Their licensing and operations are governed by several executive orders issued by the Macau Chief Executive and by the relevant concession contracts. This activity has been historically pursued on an exclusive basis by a single operator, the Macau Horse Racing Company Limited. The concession contract of Macau Horse Racing Company Limited was renewed in 2018 and will end on 31 August 2042. Until 20 July 2018, betting on greyhound races was allowed. However, the Macau Government did not renew the concession contract with the sole concessionaire, Macau (Yat Yuen) Canidrome Company Limited.

Sports betting

Macau also allows the placing of bets in sports competitions, namely soccer and basketball. Sports betting is also pursued on an exclusive basis by one single operator, Sociedade de Lotarias e Apostas Mútuas de Macau (SLOT). The concession contract of SLOT was renewed in 2016 for a period of five years, ending on 5 June 2021. SLOT is authorised to accept wagers over the counter, through telephone and online through its website.

Casino games

Casino games qualify as games of chance. Games of chance are defined as those in which the outcome is contingent, as it depends exclusively or predominantly on the player's luck. A casino concessionaire can only offer games of chance that are listed in the Macau Gaming Law or that have been approved by the Macau Government. The following is the complete list of pre-approved table games that can be offered in Macau casinos:

- 3-Card Baccarat.
- Baccarat.
- Black Jack.
- 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 Holdem Poker.
- Fortune 3-Card Poker.
- Fortune 8.
- Dragon/Phoenix.
- Omaha Poker.

The Secretary of Economy and Finance must approve the rules of each game of chance following a recommendation by the DICJ, at the request of at least one casino concessionaire.

Slot and other machine gaming

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 programed 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 (*see above, Slot and other machine gaming*). Fully automated table games can be offered at the same locations as gaming machines, while semi-automated table games are only allowed in casinos.

For the purposes of calculating a casino concessionaire's annual concession premium (*see Question 15*), the DICJ has discretionary powers to determine if a gaming machine that replicates a game traditionally played as a table game should qualify as one or the other. If the DICJ qualifies a terminal-based electronic table game as a gaming machine, each terminal is equivalent to one gaming machine when calculating a casino concessionaire's annual premium.

Bingo

Bingo is not currently approved as a game of chance and cannot be offered in Macau casinos or other gambling venues.

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 on an exclusive basis 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 one single operator, Sociedade de Lotarias Wing Hing, Limitada. The concession contract for the operation of the Chinese lottery has been renewed on an annual basis since 2010, with the current term ending on 31 December 2019.

Land-based gambling

Regulation/licensing

5. What is the licensing regime (if any) for land-based gambling?

Available licences

The commercial operation of gambling in Macau is statutorily reserved to the Macau Government and can only be pursued by privately owned entities that have been granted a concession to that effect, by entering into a concession contract with the Macau Government.

The commercial operation of casino games of chance (either in the form of table games or gaming machines) can only be pursued by one of the three operators that were granted a gaming concession following an international public tender launched in 2001 and governed by International Gaming Tender Regulation (Regulation 26/2001). Subsequently, the Macau Government authorised these concessionaires to enter into one sub-concession agreement each, therefore raising the total number of casino operators to six.

All concession and sub-concession contracts are due to expire in 2022. Until then, the casino market is closed to new concessionaires.

Eligibility

Only joint stock companies (*sociedades anónimas*) incorporated under the laws of Macau, which have the operation of games of chance as their exclusive scope of business, can bid for a casino concession. At least 10% of the registered share capital of a casino concessionaire and of a casino sub-concessionaire must be held by its managing director (*administrador-delegado*), who must be a permanent resident of Macau.

Application procedure

The granting of gaming concessions is made through a public tender launched by the Macau Government. The rules of the first (and only) public tender launched since the approval of the Macau Gaming Law were set out in Regulation 26/2001 and in the Chief Executive's decision No. 217/2001, which officially opened the tender. In this tender, the bidders, their qualified shareholders (that is, shareholders holding, directly or indirectly, 5% or more of the company's share capital), and their directors and key employees, were subject to a suitability investigation conducted by the DICJ, which verified their experience, reputation and probity. The bidders and their qualified shareholders also had to demonstrate an adequate financial capacity and were subject to investigations into their financial background. The bidders covered all costs incurred for the suitability and financial investigations, which were deducted from their bidding bonds set at MOP1 million (about US\$125,000).

A special committee appointed by the Macau Chief Executive conducted the public tender. A tender programme defined the minimum requirements of qualification, the information the bidders were expected to disclose and the mandatory elements of the proposals to be submitted.

The 2001 tender (for which a total of 18 bidders qualified) led to the award of the three casino concessions that are currently in force. The awarding criteria were the following:

- Total concession premium amount offered.
- Amount offered as contribution to a public foundation for the promotion of the cultural, scientific, social, economic and educational development of Macau.
- Amount offered as contribution to the urban development, tourism promotion and social security of Macau.
- Operational experience.

- Investment project.
- Development of casino premises and contribution to tourism diversification.
- Contribution to the creation of jobs in the gaming industry and to the training of its professionals.

Under Regulation 26/2001 there is no legally specified length for the public tender procedure. The only public tender procedure to date took about three to four months from the Macau Government's launch of the public tender until the announcement of the gaming concessions on 08 February 2002.

Duration of licence and cost

A casino concession or sub-concession has a maximum initial duration of 20 years. If it was granted for a lesser period, it can be extended, one or more times, up to a maximum of 20 years. The maximum duration of a concession or sub-concession can be extended beyond the 20-year term, one or more times, for a maximum of five years. This extension can only be granted on an exceptional basis under a justified decision of the Macau Chief Executive.

The Macau Government can unilaterally terminate a casino concession on two main grounds:

- Concessionaire's breach of a material statutory or contractual obligation.
- Reasons of public interest.

For example, a concessionaire is deemed to have breached a material obligation when it has:

- Suspended or abandoned its operations without due justification.
- Wholly or partially assigned its operations (either permanently or temporarily) in breach of the applicable laws and regulations, or in breach of its concession contract.
- Failed to pay taxes, annual concession premiums or any other consideration owed to the Macau Government under the terms of its concession contract.

In the event of termination, the ownership of the concessionaire's casinos will revert to the Macau Government, together with their equipment and all rights and assets as determined by the concession contract. No compensation will be due to the concessionaire in the case of termination for breach of contract. In the event of termination for reasons of public interest, fair compensation is calculated based on the outstanding concession period and on the concessionaire's investments up to the time of reversion.

Changes of corporate control

The Macau Government's authorisation is required for:

- The transfer or encumbering, for any reason, of the property or other right in rem of the gaming concessionaire's shares.
- The carrying out of any act that may involve the granting of the right to vote or other social rights to a person other than the holder.

If the Macau Government's authorisation is not obtained, it will be considered legally null and void (*Macau Gaming Law*). Communication to the DICJ within 30 days must also be made.

Any transfer, in any manner, directly or indirectly, of at least 5% of the share capital of the gaming concessionaire shareholders (and so on, successively, until the ultimate shareholders) must obtain the Macau Government's prior approval, except in the case of corporations whose shares are listed on the stock exchange.

Gaming concessionaires, as well as shareholders holding at least 5% of the respective capital, cannot own, directly or indirectly, an equal or higher percentage in the share capital of another gaming concessionaire.

6. What are the limitations or requirements imposed on land-based gambling operators?

Prohibitions

A casino concessionaire can only offer the games of chance that are listed as such in the Macau Gaming Law (Law 16/2001) or that have been approved by the Macau Government. Approved games can be offered in the form of table games or of gaming machines. A casino concessionaire cannot operate or offer:

- Interactive games, sports betting and wagering in animal races.
- Lotteries, raffles, lucky draws and similar operations, unless specifically authorised to do so on a case-bycase basis.

No operator can offer the above gambling products within the designated gaming areas of casinos.

Restrictions

There is no general limitation to local participation in gaming, but entrance in casinos is restricted to individuals who are 21 years or older. Subject to certain exceptions, local civil servants are also restricted from entering casinos.

Under the new amendments of the Gaming Participation Law (Law 10/2012, subsequently amended by Law 17/2018), from 27 December 2019 onwards, casino concessionaire's employees are banned from entering casinos when off duty. This includes staff that are not directly involved with gaming operations, such as the cashier, cage staff, food and beverage outlet workers, cleaners and those connected to surveillance operations.

Following the enactment of Law 10/2012, the DICJ has implemented "self-exclusion" and "third-party exclusion" procedures. Casino concessionaires must set up adequate control procedures to ensure compliance with the statutory restrictions to participation.

Anti-money laundering legislation

The current anti-money laundering regime 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 the DICJ Instruction No.1/2016 (subsequently amended by DICJ Instruction No. 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 curbing money laundering activities in the gaming industry. These obligations include:

- Customer due diligence obligations.
- Enhanced monitoring of play by politically exposed persons.
- Identification and reporting of suspicious transactions.
- The obligation to refuse to carry out 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.

Online gambling

Regulation/licensing

7. What is the licensing regime (if any) for online gambling?

The commercial operation of online gambling can only be pursued by privately owned entities that have been granted a concession to that effect, through entering into a concession contract with the Macau Government.

However, unlike for land-based games of chance, the Macau Government has not issued regulations governing the concession and operation of online gambling (defined in the Macau Gaming Law (Law 16/2001) as interactive gaming (see Question 2, Online gambling) and has not launched a tender to grant these concessions. Additionally, concessionaires of casino games of chance cannot operate interactive games.

The exclusive operators of horse racing (Macau Horse Racing Company Limited) and sports betting (*Sociedade de Lotarias e Apostas Mútuas de Macau* (SLOT)) can offer online wagering limited to the competitions they offer.

Changes of corporate control

Not applicable (see *Question 7*).

8. What are the limitations or requirements imposed on online gambling operators?

Not applicable (see Question 7).

B2B and B2C

9. Is there a distinction between the law applicable between B2B operations and B2C operations in online gambling?

There is no statutory distinction between B2B and B2C online gambling operations in Macau. Under the current definition of interactive games (*see Question 2, Online gambling*), it is safe to conclude that a B2B business model under which an online provider of gambling services licences its products to a Macau gambling operator (authorised to accept online wagers, such as SLOT) without directly contracting with customers in Macau, does not qualify as operating online gaming in Macau. However, the licensing of certain online gambling software to Macau gaming operators requires prior technical approval from the DICJ.

Technical measures

10. What technical measures are in place (if any) to protect consumers from unlicensed operators, such as ISP blocking and payment blocking?

Macau does not restrict access to overseas gaming or wagering websites and does not impose any blocking obligations on internet service providers.

Mobile gambling and interactive gambling

11. What differences (if any) are there between the regulation of mobile gambling and interactive gambling on television?

There are currently no legal differences between mobile gambling and interactive gambling on television. If the relevant requirements are fulfilled, the operation of casino games of chance on both platforms can qualify as interactive gaming when conducted in Macau (see Question 2, Online gambling).

Social gaming

12. How is social gaming regulated in your jurisdiction?

There is no statutory definition of social gaming in Macau and social gaming per se is not a regulated activity. However, social gaming offered through the web or through online mobile platforms may qualify as interactive gaming (*see Question 2*, *Online gambling*). Therefore, the definition of interactive gaming effectively places limitations on how social casino games can be legally operated in Macau through those platforms.

An online casino game that is free to play and does not award players the possibility of winning prizes or tokens exchangeable for real-world rewards does not qualify as an interactive game and can be freely offered in Macau.

Blockchain technology

13. To what extent is blockchain used in gambling in your jurisdiction? How is it regulated?

Not applicable. Blockchain technology is not specifically regulated in Macau.

Gambling debts

14. Are gambling debts enforceable in your jurisdiction?

Gambling debts are only enforceable in Macau if the credit is granted by a casino concessionaire or a licensed gaming promoter.

Tax

15. What are the applicable tax regimes for land-based and online gambling?

The special gaming tax is the largest source of gaming tax revenues. This tax applies to casino concessionaires and is levied on their gross gaming revenue at a rate of 35%. Casino concessionaires must also pay a:

- Contribution to the Macau Foundation, a public foundation responsible for promoting the cultural, scientific, social, economic and educational development of Macau (1.6% of gross gaming revenue).
- Special contribution for urban development, tourism promotion and social security (2.4% of gross gaming revenue for all casino concessionaires except one that, for historical reasons, is subject to a 1.4% rate).

Although casino concessionaires are legally subject to profit tax (locally named complementary tax), they have been historically exempt from paying profit tax under an order of the Chief Executive issued under the provisions of the Gaming Law (Law 16/2001).

Casino concessionaires must also pay an annual concession premium comprising a:

- Fixed amount of MOP30 million (about US\$3.8 million).
- Variable amount levied on the number of table games and gaming machines at the following approximate rates:
 - for each VIP table game: MOP300,000 (about US\$37,500);
 - for each mass-market table game: MOP150,000 (about US\$18,800); and
 - for each gaming machine: MOP1,000 (about US\$125).

Advertising

16. To what extent is the advertising of gambling permitted in your jurisdiction? To the extent that advertising is permitted, how is it regulated?

The advertising of gambling is regulated by the Advertising Law (Law 7/89/M), which prohibits any type of marketing activity that depicts games of chance or their play as the essential element of the advertisement.

The prohibition of gambling advertising is complemented by a set of instructions issued by the Macau Economic Services (MES), which is the government department generally responsible for the supervision and enforcement of the Advertising Law. The MES issued these instructions with the aim of facilitating the interpretation of the prohibition. The instructions detail the types of advertising activities that are considered illegal by the MES and give practical examples of illegal activities. The prohibition applies to all types of marketing conducted in Macau and encompasses games of chance played offline and online. However, the prohibition does not appear to cover the types of gambling that do not qualify as games of chance, such as sports betting, horse or greyhound races and lotteries.

Developments and reform

Legal development

17. Has the legal status of land-based and online gambling changed significantly in recent years, and if so how?

The legal status of land-based and online gambling has not changed significantly in recent years.

Reform

18. What, if any, are the likely short-term and long-term developments/legislative amendments concerning gambling in your jurisdiction? Are there any proposals for reform?

The extension of the current gaming concessions (set to expire in 2022) is a current hot topic and possible developments are likely to be up for discussion by the Macau Government in 2019. Indeed, the Macau Government may decide on the possibility of the exceptional extension of current concession contracts and/or on the launch of a new public tender and respective conditions, in particular the number of concessions to be granted.

The DICJ has announced the revision of the gaming promoters' licensing rules (currently governed by Regulation 6/2002) to improve the suitability and financial soundness of operators. It is widely expected that these changes will be enacted in the short term.

Revision of the Electronic Gaming Machines (EGMs) Regulation (Regulation 26/2012), which regulates electronic gaming machines and systems and other gaming equipment, is also underway, in particular with regards to the licensing procedures for EGM manufacturers, suppliers, distributors and laboratories.

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Publications

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