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Israel

GAMBLING LAW

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

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ISRAEL

GAMBLING LAW



1. What is the legal definition of gambling?

The Israeli Penal Law ("**the Law**") places a blanket prohibition on gambling activities, including all forms of lotteries, games of chance and betting – with three main exceptions. These exceptions are in the form of a national lottery monopoly, national sports betting operator and purely social gaming. These exceptions are regulated as follows:

Mifal Hapayis (the National Lottery) – the Israeli National Lottery offers scratch cards, weekly subscription lottery and other lotteries and raffle products. The operations of Mifal Hapayis are supervised and regulated by the Ministry of Finance.

Israel Sports Betting Board (ISBB) – under the Law for the Regularisation of Sports Betting 5727-1967, the ISBB has the exclusive right to organise and regulate sports betting in Israel.

Social Gaming – Israeli law states that the prohibition on gambling does not apply "*to a game, lottery or betting that meets the following three conditions: (1) its conduct is intended for a certain circle of persons; (2) it does not exceed the scope of amusement or entertainment; and (3) it is not held in a place of prohibited games or a place for the conduct of lotteries or betting*".

Within the Israeli Penal Law, there are several provisions that relate to the definition of gambling activity. Chapter Twelve of the Law, titled "Prohibited Games, Lotteries and Betting", sets out a prohibition on organising "*lotteries, betting and prohibited games*" (section 225) and a prohibition on "*participating in prohibited games*" (section 226).

The Law defines these terms as follows:

"Prohibited game" – a game at which a person may win money, money's worth or a benefit according to the results of the game, such results depending more on chance than on understanding or ability;

"Place of prohibited games" – premises in which

prohibited games are habitually conducted, whether such premises are open to the public or to certain persons only; and it is immaterial whether such premises are occupied also for some other purpose;

"Lottery" – any arrangement under which it is possible – by drawing lots or otherwise – to win money, money's worth or a benefit, winning depending more on chance than on understanding or ability; and

"Betting" – any arrangement under which it is possible to win money, money's worth or a benefit, winning depending on the guessing of something; it includes a lottery connected with the results of sports matches and contests.

As we can see, Israeli Law defines three separate categories of gambling. The way in which these are defined however, is extremely broad – and the three categories in practice cover all forms of gambling. The three definitions are so broad that they also overlap – resulting in certain types of gambling activity falling under more than one category at a time.

Case law in Israel saw courts recognising, amongst others, the following as constituting gambling under Chapter Twelve of the Law: casino games; roulette; bingo; betting; slot machines; lotteries; and sports betting.

In addition, case law in Israel saw the introduction of the "predominance test" to the process of assessing whether an activity qualifies to be a gambling activity. Israeli courts have established that in order to determine whether a game is to be perceived as "based on chance more than understanding or ability", the predominance test will be applied, assessing whether the predominant element in determining the outcome of the game is skill, or rather chance.

In a ruling from 2011 dealing with the assessment and definition of "betting", the District Court of Tel-Aviv determined that where a particular activity combines both elements of skill and chance, the "*social interest and utility*" of the game in question need also to be

taken into account when determining its classification and overall legality (Class Action (Tel Aviv) 30284-01-10 *Simon Davush v Connective Group Ltd.*).

Finally, it is important to note that even though the provisions of the Law do not explicitly make reference to online gambling, online gambling is considered to be illegal to the same extent as terrestrial gambling. Israeli court decisions as well as the official views expressed by various government bodies and agencies (including the Ministry of Justice, the State Comptroller, the Israel Police etc.) have clarified that the definitions and prohibitions set out in the law regarding gambling apply just the same to online gambling (see, for example, Special Requests, (Tel Aviv) 908617/07 *Carlton v The National Unit for the Investigation of Fraud*, Special Requests (Jerusalem) 1153/02 *The State of Israel v Aberg'il* and Annual Report 61B for the Year 2010 and the Accounting Year 2009, Jerusalem May 2011, Chapter 3 at p. 357, published by the State Comptroller and Ombudsman of Israel).

The Israeli Supreme Court had even ruled that enforcement should be stricter when directed against illegal online gambling activities, as online activities pose a greater degree of risk to the social interest (see, for example: Criminal Appeal (Supreme Court) 6889/11 *The State of Israel v Eliran Oved*); Administrative Appeal (Supreme Court) 3782/12 *The Commander of the Tel Aviv-Jaffa District Israel Police Israel v The Israel Internet Association*; and Special Criminal Appeal (Supreme Court) 7064/12 *Or Pando v The State of Israel*).

2. What legislation applies to gambling? Please provide a summary of the legal/regulatory framework.

The legal definitions relating to gambling activity in Israeli law are set out in the Israeli Penal Law.

Chapter 12 of the Penal Law includes the definitions of the types of activities that constitute gambling and betting, the respective prohibitions associated with those activities, and the few exemptions available.

The Penal Law also details the prohibitions over ancillary services to gambling activities, such as the management and operation of venues where gambling activity takes place.

Chapter 12 of the Penal Law defines the different types of activities that constitute gambling and betting in Israel, divided into three categories:

Section 231(A) of Chapter 12 establishes the authority of the Minister of Finance to issue a permit for the

operation of the National Lottery.

The operations of the ISBB are regulated by the Law for the Regulation of Sports Betting 5727-1967. The various betting programmes operated by the ISBB are governed by specific regulations issued by the ISBB itself, in accordance with its statutory powers.

3. Which body/ies regulate gambling?

Gambling in Israel is regulated by two bodies:

Betting activity – the Israel Sports Betting Board holds a monopoly over the regulation (as well as the offering) of land-based betting services.

Gambling activity – the Ministry of Finance regulates the activities of the Israeli National Lottery (Mifal Hapayis).

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?

Given the fact that commercial gambling is prohibited in Israel, there are no relevant gambling licences able to be applied for.

The only gambling licences available in Israel are those granted to the National Lottery and the ISBB as state-licensed monopolies. The operational licences granted to the monopolies are regulated by the Penal Law and the Law for the Regularisation of Sports Betting 5727-1967, both of which do not provide for an “open” commercial licensing system.

What is the duration of a licence?

The gambling permit granted to the National Lottery is issued for a renewable duration of five years.

The authorisation granted to the ISBB to organise sports betting activities is permanent.

What types of licences are available?

This is not applicable in our jurisdiction.

Are there different types of licences for B2C and B2B operators?

This is not applicable in our jurisdiction.

Do software suppliers need to be licensed?

This is not applicable in our jurisdiction.

5. Are any types of gambling products prohibited?

Casino gaming in general (including slots machines, roulette tables, blackjack and even poker) is prohibited in Israel.

The only types of lotteries permitted in Israel are those allowed to be offered under the renewable concession awarded to the National Lottery, *Mifal Hapayis*. Bingo and Keno, which fall under the definition of a "lottery" in Israel, are currently not part of the concession provided to *Mifal Hapayis*, despite keno historically being offered by the national lottery until 2018. Similarly, *Mifal Hapayis* was previously allowed to operate 500 instant game machines (Video Lottery Terminals, or VLTs), until in 2017, upon renewal of its five-year concession, its permit to operate VLTs was revoked.

The only types of sports betting permitted in Israel are those offered by the ISBB. Originally the ISBB's portfolio covered only soccer games, but this was significantly expanded over time. In 2018, the Ministry of Finance disallowed wagering on horseracing events in 2018, after allowing these to be offered since 2013.

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.

In light of the only gambling licences available in Israel being those awarded to the state-licensed monopolies, there is no open licensing process for these activities. Interested parties (both businesses and individuals) can apply to obtain concessions for the distribution of the products and services of the National Lottery and the ISBB.

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

As no commercial licensing exists in Israel, this does not apply in our jurisdiction.

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

Advertising by the National Lottery and the ISBB is permitted, and regulated.

The Ministry of Finance is tasked with overseeing the advertising practices of the National Lottery. The National Lottery itself is responsible for the activities of its concession holders and is required to keep them in compliance with the terms of the National Lottery's own operational permit.

Oversight of the ISBB's advertising practices is carried out internally, in accordance with the ISBB's statutory powers.

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

Both the ISBB and the National Lottery have policies in place about the use of concessionaires, as a means of broadening distribution of their products. The policies mainly deal with the number of distribution points available, the criteria for their location and any eligibility qualifications for applicants.

While the ISBB is acting based on an internal policy the ISBB itself had devised on the matter, the National Lottery acts in accordance with the terms of its renewable permit, as awarded by the Ministry of Finance.

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

Gambling operators who service customers in the Israeli market risk criminal enforcement attempts by local authorities. Under section 225 of the Law, any person who organises or conducts a prohibited game, lottery or betting in Israel is liable to imprisonment for three years or a fine of NIS 452,000.

Advertising of unlawful gambling is a punishable offence. Section 227 of the Law providing that an individual advertising lotteries or betting is liable to a penalty of up to one year's imprisonment or a fine of up to approximately NIS 150,600.

Gamblers themselves who participate in a prohibited game are liable for imprisonment for one year, or a fine of approximately NIS 29,200.

11. Briefly detail key requirements for licensees.

Given the fact that commercial gambling is prohibited in Israel, there are no relevant eligibility criteria applicable for license applicants.

12. Briefly detail key anti-money laundering requirements.

The National Lottery and the ISBB are both subject to the general Israeli Prevention of Money Laundering Law 5760-2000.

The National Lottery is also subject to specific AML requirements as detailed in its renewable permit. These include the obligation to register gamblers who purchase lottery tickets with potential prizes exceeding a specified amount, undertaking identification of prize recipients, the imposition of restrictions over cash payments in excess of certain amounts and the obligation to appoint a person responsible for AML practices.

The ISBB's operations are subject to specific AML requirements as set out in the Law for the Regulation of Sports Betting 5727-1967. These include the requirement to record the identity of gamblers making wagers in excess of certain amounts, identifying recipients of prizes and an obligation to appoint a person responsible for AML practices.

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

Since 2007, all persons who wish to participate in gambling activities offered by the National Lottery or the ISBB must be over the age of 18.

The operational permit awarded to Mifal Hapayis requires it to maintain a policy dealing with responsible gaming. The policy makes several requirements on the National Lottery, the most notable of which are that the National Lottery: allocating an annual sum of NIS 500,000 for the financing and promotion of research and publications regarding problem gambling and the social impacts of gambling; allocates 3.5% of its annual marketing budget into campaigns dealing with responsible gambling and the detection, prevention and treatment of problem gambling; invests a sum of NIS 3 million annually in providing problem gambling treatment; cooperates and provides information about gambling to research institutions.

The National Lottery is required to publish on its website and sale point regarding gambling associated risks and

harm, as well as treatment options. Finally, the National Lottery must carry out its sales and advertising campaigns in a manner that is compliant with international standards (specifically those adopted by the World Lottery Association).

The ISBB maintains a policy dealing with responsible gambling, which sets out, inter alia, that the ISBB: will be committed to acting in accordance with the ethical code published by the European Lotteries and Toto Association; operate educational training to staff and concessionaires relating to responsible gambling; support research into identification and treatment of problem gambling. The ISBB also offers responsible gambling management tools for gamblers, allowing them to set self-imposed limits on spend on daily, weekly or monthly basis.

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

As no commercial licensing exists in Israel, this does not apply in our jurisdiction.

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

Enforcement powers held by the Ministry of Finance include the power to suspend or even revoke the permit awarded to the National Lottery for its operation, as well as the suspension or complete discontinuation of specific types of permitted gambling products forming part of the offering by the National Lottery or the ISBB.

Sanctions of the Ministry of Finance are enforced by way of formal decisions. The Ministry had previously issued sanctions against both the National Lottery and the ISBB – revoking the National Lottery's permit for the operation of VLTs, as well as rescinding the permission granted to the ISBB to offer horse race wagering.

In addition, the Ministry of Finance is able to order the suspension of advertising campaigns launched by the National Lottery, to the extent the Ministry deems these to be in breach of the terms of the permit awarded to the National Lottery.

16. What is the tax rate?

The main relevant tax is the tax charged on gambler's winnings or prizes generating from gambling activity.

In 2019, a reform to gambling taxation significantly reduced the then existing tax exemption for gambling

prizes. The current exemption from payment of gambling tax applies to prizes with a total monetary value of up to NIS 31,200 only, while previously the exemption stood at NIS 50,000.

The adjusted threshold amount for tax exemption as of January 2023 is NIS 32,760.

For prizes whose value is between NIS 32,760 and NIS 65,520 tax rates are incremental, and are finally set at 35% for prizes whose value exceeds NIS 65,520.

Notwithstanding the above, Israeli courts have on occasion issued rulings relating to the taxation of gambling-related winnings that deviated from the standard gambling-related taxation rules, specifically with respect to winnings generated from the game of poker.

For example, the Israeli Supreme Court had ruled in 2018, in connection with a tax appeal filed by a professional poker player, that winnings consistently generated from professional poker activity would be taxed as work related income – which is subject to a higher tax rate than gambling winnings (see [Supreme Court] 476/17 Amit Amishvili Rafi v Assessing Officer Tel Aviv 4). This position was later repeated in another court case from 2018 (Tax Appeal (Tel Aviv) 45369-02-17 Miller Ori v Assessing Officer Tel Aviv 3), again with respect to winnings generated by a professional poker player.

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.

A private member bill was introduced to the Israeli parliament (“Knesset”) in early 2019, aimed at regulating real-money poker tournaments. The bill has yet to be formally considered, and remains pending Parliament’s decision on either having it removed from the agenda or to have it sent to the relevant House Committee for preparation for a first reading.

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

Under current political climate in Israel, it is unlikely that the coming years will bring a positive development to the regulation of gambling in the Israeli market. Additional restrictions on the current offerings by the National Lottery and the ISBB, as well as promotional draws in general, are more likely.

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

Israel’s highly conservative approach towards gambling remains the biggest inhibitor to growth in the local market.

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

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