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GUIDES 2023**

The Legal 500 Country Comparative Guides

Macau

GAMBLING LAW

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

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MACAU GAMBLING LAW



1. What is the legal definition of gambling?

Within the Macau Special Administrative Region of the People's Republic of China (referred to as Macau or MSAR), the current legal and regulatory framework permits four types of gaming activities:

- i. games of chance, defined as 'those in which the result is contingent because it depends exclusively or mainly on the luck of the player';
- ii. pari-mutuel (horse racing is the only activity currently being operated), defined as a 'system of betting on animal racing or a sporting event in which the winners split the total amount bet, after deduction of commissions, fees and taxes in proportion to the amount individually bet';
- iii. operations offered to the public, defined as 'those in which the hope of winning resides solely on luck, such as lotteries – including sports lotteries – raffles, tombola and sweepstakes'; and
- iv. interactive gaming, defined as 'games of chance in which (a) a prize in cash or other value is offered or may be won under the respective rules, (b) a player enters or participates in the game by means of telecommunication, namely by means of telephone, telefaxes, internet access, data networks, the transmission of video signals or digital data, and to do so, either agrees to make payments in cash or any other value, and (c) the game is also offered or approved as a game of chance or through an electronic or mechanical gaming machine in casinos'.

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

There are different laws, regulations and other secondary legislation that apply to gambling in Macau, depending on the different types of activities mentioned

above.

We will highlight the legislation applicable to the operation of casino games of chance.

Games of chance

- i. Law No. 8/96/M of 22 July 1996 (illegal gambling), criminalizes certain activities relating to gambling.
- ii. Law No. 16/2001 of 24 July 2001 (Macau Gaming Law), amended by Law No. 7/2022 of 22 June 2022, which is the main legal framework of the operation of casino games in Macau.
- iii. Law No. 5/2004 of 14 June 2004 (extension of credit for casino gaming), contains the rules of extension of credit to patrons by the casino gaming concessionaires and gaming promoters. This law is likely to be revoked and replaced by a new law as from 1 January 2023.
- iv. Law No. 10/2012 of 27 August 2012 (entry, work and gaming restrictions in casinos), as amended, regulates the entry, employment, and participation in gaming activities within casinos in Macau.
- v. Law No. 16/2022 of 16 December 2022 (regime of operation of casino games of chance), establishes the rules regarding the exercise of the casino gaming activity by concessionaires, gaming promoters, employees, and management companies.
- vi. Administrative Regulation No. 26/2001 of 29 October 2001 (public tender regulation), as amended, outlines the requirements and procedures for obtaining a concession to operate casino games of chance in Macau, specifying the criteria that must be met by applicants, including financial capacity, integrity, and suitability.
- vii. Administrative Regulation No. 26/2012 of 26 November 2012 (gaming machines regulation), which contains the regime of supply and requirements of gaming machines,

equipment, and systems.

Besides the main laws and regulations stated above and without prejudice to other secondary legislation, it is worth mentioning that Macau operates under an administrative concession system, whereby the Macau SAR Government and legally established private entities in Macau enter into concession contracts that contain the duties and obligations of the casino gaming concessionaires.

In the light of this, casino concession contracts were signed on 16 December 2022 with Wynn Resorts (Macau) SA, MGM Grand Paradise, SA, Galaxy Casino, SA, SJM Resorts, SA, Venetian Macau, SA, and Melco Resorts (Macau), SA. These contracts, effective from 1 January 2023, have a duration of 10 years. They outline the rights, duties and obligations of the casino concessionaires in accordance with the relevant legal and regulatory framework mentioned above.

3. Which body/ies regulate gambling?

The Chief Executive holds the highest executive authority regarding gaming matters, which can also be delegated to the Secretary for Economy and Finance and the Gaming Inspection and Coordination Bureau (DICJ). DICJ, as the regulatory authority, is primarily responsible for overseeing all permitted gaming activities. It operates as a department within the government structure, under the Secretariat for Economy and Finance. DICJ is entrusted with defining public policy, executing it, and regulating, supervising, and coordinating gaming operations and activities.

Besides DICJ, there are other entities that have responsibilities over the industry:

- i. The Gaming Commission acts as an advisory body with the responsibility of shaping policies and promoting the growth of Macau's casino gaming industry while ensuring a robust regulatory framework.
- ii. Financial Services Bureau possesses regulatory authority concerning the financial accounting practices of gaming operators and promoters. It works in conjunction with DICJ and has the ability to conduct audits of exceptional casino concessionaires or gaming promoters.
- iii. The Judiciary Police maintains a specialized unit that possesses exclusive jurisdiction to investigate crimes related to gaming within casinos, gaming venues, and their immediate surroundings.
- iv. The Financial Intelligence Office has the

responsibility of gathering, analyzing, and disseminating information pertaining to anti-money laundering (AML) and counter-terrorist financing. It plays a crucial role in receiving and processing suspicious transaction reports submitted by gaming operators and promoters.

- v. Social Welfare Bureau and the Health Bureau have distinct roles. The Social Welfare Bureau focuses on tackling problem gambling concerns, while the Health Bureau is responsible for enforcing the prohibition on smoking within casinos.

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?

As mentioned, Macau operates under an administrative concession system that applies to various sectors of the industry. This system involves the Macau SAR government and legally incorporated private entities entering into concession contracts. This arrangement applies to the operation of casino games, Chinese and sports lotteries, as well as pari-mutuel activities such as horse racing and greyhound racing.

Once the Government initiates the tender process, applicants have the opportunity to submit their concession applications. However, it is currently not expected that new tenders will be opened in the foreseeable future, as the current casino gaming concessions are valid until 31 December 2032.

Nonetheless, it is only possible to apply for a gaming promoter license and for administrative authorizations to supply gaming machines, equipment, and systems, and to act as collaborator of the gaming promoters.

a. What is the duration of a licence?

Casino concessions: 10 years.

Gaming promoter: 1 year.

Collaborator of the gaming promoter: 1 year.

b. What types of licences are available?

Please refer to the above.

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

There are no B2C licenses. Administrative authorization to supply gaming machines, equipment, and systems is available.

d. Do software suppliers need to be licensed?

Software suppliers are not required to be licensed.

Nonetheless, software is included in the definition of gaming machine ("any device, including game programs and associated software, memory compartments, random number generators, and storage media for game programs, operated wholly or partially by electrical, electronic, and/or mechanical means, and designed, adapted, or programmed for" games of chance and the payment of a prize) that must be approved by the regulator.

5. Are any types of gambling products prohibited?

In Macau SAR, there are currently no laws or regulations that specifically govern all forms of remote gambling, including internet and mobile gaming. According to Macau Gaming Law, casino gaming concessionaires are not permitted to operate interactive games of fortune and chance. This means that online gambling in Macau is considered illegal. The only legal options for remote gambling in Macau are limited to pari-mutuel horse racing and the sports lottery, which are exclusively offered by the Macau Jockey Club and Macau SLOT, respectively.

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.

The application process for a concession in Macau is governed by Administrative Regulation no. 26/2001. Macau operates under a concession system where successful applicants are granted the right to operate through a public tender.

The process begins with the establishment of a tender committee by the Executive. Interested companies or bidders, along with their directors, key employees, and shareholders holding more than 5% of the share capital, undergo a thorough assessment of suitability and financial capacity by the DICJ (Gaming Inspection and Coordination Bureau).

The tender program for casino gaming concessions in Macau includes specifications such as minimum

requirements for applicant admission and award proposals. It also outlines the criteria for granting casino gaming concessions. According to Macau law, concessions can only be awarded to applicants who are deemed suitable, possess financial capacity, and present the most advantageous conditions for the proper operation of casino games of chance in Macau.

To participate in the tender, bidders must provide a guarantee deposit determined by the Chief Executive.

This assessment will determine if they meet the necessary requirements to be granted a casino concession. Furthermore, applicants must demonstrate sufficient financial capacity to operate the casino concession. This can be achieved by providing appropriate guarantees from financial institutions or the applicant's dominant shareholders.

To be considered for a casino concession in Macau, applicants must meet the following main requirements:

1. Incorporation: Applicants must be incorporated in Macau as a limited liability company by shares, with a minimum registered share capital of MOP 5 billion.
2. Business Scope: The applicant's business scope should include the operation of casino games of chance.
3. Macau Resident Requirement: It is mandatory for a Macau permanent resident to hold at least 15% of the applicant's share capital and fulfil the role of managing director.

Casino concessions are granted through an administrative concession contract based on a substantiated report by the tender commission. The duration of the concession is typically up to 10 years. However, the Chief Executive may, under exceptional circumstances, extend the concession's duration for a maximum of three years, provided it does not exceed the total limit.

Once the public tender is completed and all requirements and criteria are met, a concession contract is signed between the concessionaire and the Macau Government, providing further legitimacy to the operations of the concessionaire.

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

As mentioned, collaborators of gaming promoters and management companies of the casinos are also required to obtain authorization. It is worth noting that key

employees of the concessionaires, including those in top positions in areas such as gaming operations, administration, finance, human resources, compliance, legal, and IT, are subject to suitability checks. These checks ensure that individuals in these important roles meet the necessary requirements and qualifications.

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

The Advertisement Act of 1989 in Macau prohibits the advertisement of casino games of chance if the games themselves are the primary focus of the advertisement. However, gaming operators are allowed to advertise these games when they are not the central element of the advertisement. It is worth noting that despite this restriction, the casino concession contracts signed by the Government since 2002 (including current contracts) require operators to conduct advertising and marketing campaigns both within Macau and internationally. This requirement may appear contradictory to the Advertisement Act. The Macau regulator has a strict approach towards gaming advertisements, often discouraging local operators from including gaming-related images, sounds, and messages in their promotional campaigns. This is particularly evident after the regulator issued instructions on identifying illegal advertisements for games of fortune and chance.

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

As mentioned, online gaming is not legalized in Macau and, as such, marketing affiliates are not permitted.

Nonetheless for the land-based casinos, we may consider gaming promoters (commonly known as “junkets”) as having a similar role, i.e., to conduct the activity of promotion of casino games. Such activity comprises the provision of facilities to players, including transportation, accommodation, meals, and entertainment, in exchange for a commission paid by the concessionaires, not exceeding the legally established limit.

Law 16/2022 establishes the licensing regime of the gaming promoters and the requirements to conduct the activity. This law also establishes that a maximum number of gaming promoters that may work with each casino gaming concessionaire will be established by the Secretary for the Economy and Finance.

On 31 July 2023, the Secretary for the Economy and Finance established such number for 2024 as such:

MGM Grand Paradise Limited – 8

Galaxy Casino Limited – 5

Venetian Macau Limited – 12

Melco Resorts (Macau) Limited – 8

Wynn Resorts (Macau) Limited – 5

SJM Resorts Limited – 12

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

Law no. 8/96/M in Macau governs illegal gaming activities. It prohibits operating, promoting, or assisting in gaming outside authorized areas, engaging in fraudulent or illicit gaming within authorized areas, and providing unlicensed loans or gaming credits to patrons.

Violations of this law, such as offering unlawful games of chance in unauthorized venues, can result in imprisonment for up to three years or a fine. Participating in illegal gaming may lead to a fine of up to 180 days, while being found in an illegal gaming site can result in a fine of up to 90 days. Fraudulent games carry a penalty of up to five years of imprisonment.

Additionally, the illegal operation of games of chance and fortune in authorized venues can lead to a maximum imprisonment of three years or a fine. Participating in such illegal operations can result in imprisonment for up to six months or a fine. Lastly, game usury is punishable by a maximum imprisonment of three years.

11. Briefly detail key requirements for licensees.

Please refer to what is stated in section 6.

12. Briefly detail key anti-money laundering requirements.

Casino gaming concessionaires and promoters must establish internal controls and appoint an independent compliance officer approved by the DICJ to prevent money laundering and financing of terrorism. Transactions of MOP 500,000 or more require a report (ROVE) with customer details, transaction information,

and compliance officer's signature. Suspicious transactions, indicating potential money laundering or terrorism financing, must be reported through suspicion transaction reports (STR). Non-compliant patrons should be refused transactions. Regular assessments ensure effective anti-money laundering and terrorism financing measures.

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

The control over responsible gambling and addressing harm caused by the Macau gaming industry is still limited. Law no. 10/2012 introduced a voluntary self-exclusion process and third-party exclusion services, allowing patrons or their direct family members to apply for exclusion from some or all casinos in Macau for up to two years. However, third-party exclusion requires patron acceptance for it to be effective and enforceable.

The DICJ has made efforts to enhance public awareness of responsible gaming through instructions, but there are no direct legal obligations for gaming operators in this regard.

In 2018, Law no. 10/2012 was amended by Law no. 17/2018, restricting off-duty employees of concessionaires from entering the casino area, similar to public servants who can only enter during festive periods (Chinese New Year). Law no. 7/2022 introduced further amendments, requiring casino gaming concessionaires to have comprehensive responsible gambling plans. These plans should include measures to prevent minors and legally incapacitated individuals from entering casinos, promotion of exclusion programs, and the establishment of a specialized team for employee support and training on responsible gambling.

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

Under Macau Law and casino concession contracts the transfer or encumbrance, in any form, of ownership or other rights over shares representing the share capital of the concessionaire, as well as the performance of any acts that involve the assignment of voting rights or other corporate rights to a person other than the rightful owner, require authorization from the Secretary for Economy and Finance.

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

Casino gaming concessionaires are subject to the

regulatory control by the DICJ, a public department responsible for formulating and implementing gaming policies, as well as supervising and coordinating gaming operations.

The legislator in Macau has granted extensive enforcement powers to the local regulator. There is a wide range of sanctions available, including fines, concessions, and termination of concessions. However, the actual application of sanctions by the DICJ (Macau's regulator) has not been as extensive as permitted by the existing legal framework. While there have been informal and unofficial recommendations issued in certain specific situations, there is no record of significant sanctions being imposed by Macau's regulator.

Law no. 7/2022, which amended the Macau Gaming Law, introduces a crime of disobedience for those who refuse entry to DICJ and Finance Department personnel for inspections. It also establishes a regime of administrative sanctions, including fines of up to MOP 5 million and additional penalties such as casino closure or publicizing the sanction. Similar administrative sanctions are provided under Law 16/2022 for infringements related to the operation of games.

Concession contracts, categorized as administrative contracts, include provisions for sanctions such as unilateral termination, redemption, fines, or penalties.

16. What is the tax rate?

According to Macau Gaming Law, casino gaming concessionaires are required to pay a special gaming tax of 35% of their gross gaming revenue by the 10th day of each month. Additionally, gaming operators must pay 2% of their gross gaming revenue for public funds that support cultural, scientific, social, economic, and educational development, as well as 3% for urban development, tourism promotion, and social security.

This 5% of contributions may be exempted taking into consideration certain factors that include expansion of foreign client markets by the casino gaming concessionaires and the negative impact of unforeseen events on the Macau economy and the operation of the casino gaming concessionaires.

In addition, a 5% tax is also imposed on the commissions paid to gaming promoters. Furthermore, the Macau Gaming Law specifies a special levy if a gaming table or slot fails to reach the annual minimum gross revenue. This levy corresponds to the special gaming tax on the difference between the generated gross gaming revenue and the minimum gross gaming revenue per table (MOP

6 million) and machine (MOP 300,000) set by the Chief Executive's order.

Despite the abovementioned taxation system, the Macau Gaming Law gives the power to the Chief Executive to exempt, partial or totally, the Income Complementary Tax based on public interest, which has not occurred until the date of writing [30 October 2023].

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.

In relation to the legal and regulatory landscape of the Macau casino gaming market, there are anticipated modifications to both the credit for gaming law and the illegal gambling law.

In this context, a new credit for casino gaming draft law is currently awaiting final approval in the second reading and is projected to come into effect on 1 January 2024, revoking and replacing Law 5/2004.

The proposed amendments to the credit for casino gaming law in Macau seek to establish regulations and improvements concerning the provision of credit within the gaming industry. These changes encompass requirements for gaming promoters to have contracts with casino gaming concessionaires, while excluding management companies from extending credit. Additionally, new obligations and consequences for credit grantors are introduced to promote responsible lending practices. The legislation also incorporates general provisions pertaining to supervision, authority powers, precautionary measures, and sanctions.

No specific details have been provided regarding potential revisions to the illegal gambling law.

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

Pursuant to the major reform to the Macau Gaming Law in 2022 and other legislative and regulatory changes, it is unlikely that key regulatory developments proposed or on the horizon in the next 12-24 months will take place.

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

Macau's six casino gaming concessionaires have pledged a substantial investment of MOP\$118.8 billion (US\$14.9 billion) over their 10-year concession during the tender of 2022. This amount of investment is reflected in the concession contracts that entered into force on 1 January 2023. The investment aims to diversify tourism offerings and enhance Macau's appeal beyond gambling. Macau's Gross Gaming Revenue (GGR) for the first half of 2023 has surged by 205% year-on-year, reaching MOP\$80.14 billion (US\$9.93 billion). The third quarter of 2023 saw a 7% increase in GGR, reaching nearly 70% of pre-Covid levels. The mass-market segment has thrived with an 11% growth, recovering to 95% of pre-pandemic levels. Earnings before interest, taxes, depreciation, and amortization (EBITDA) may have reached USD \$1.7 billion in the third quarter. These positive trends indicate a promising outlook for Macau's gaming market, showcasing its resilience and potential for recovery.

Apart for the global geopolitical instability, we do not foresee any imminent risk to the growth of the gambling market in Macau.

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

A gambling start-up may choose Macau for the following reasons:

1. Established Gaming Market: Macau is the biggest hub for gambling, attracting millions of visitors, especially from China and other Asian countries.
2. Favorable Regulations: Macau has transparent and fair gambling laws that prioritize responsible practices.
3. Strong Infrastructure: Macau offers top-notch resorts, hotels, and entertainment venues, creating an appealing experience.
4. Access to a Large Customer Base: Macau's proximity to China and accessible visa policies make it convenient for Chinese tourists and visitors from other parts of Asia to come.
5. Diversification Opportunities: Macau actively promotes attractions beyond gambling, allowing start-ups to incorporate different offerings into their businesses.

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