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Gaming Authority Law, 2021:
Ten Significant Provisions**

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Introduction

On April 19, 2021, the Governor of Lagos State, Mr. Babajide Sanwo-Olu signed into law, the Lagos State Lotteries and Gaming Authority Law, 2021 (the “**Law**”). The enactment of the law was borne out of the desire of the State Government to regulate all gaming activities in Lagos State and to harmonize all the laws and agencies which regulate gaming activities within the State. In addition, the Law seeks also to establish the Lagos State Lotteries and Gaming Authorities (the “**Authority**”).

The Law replaces and modifies Lagos State’s several statutes¹ governing various gaming activities and consolidates all of the regulatory powers under them in the newly-established Authority².

However, the provisions of the Law are susceptible to being challenged for constitutional reasons. For instance, can a state government validly regulate online gaming activities, which will likely have an impact on participants across the entire country? Can a state government validly legislate on data protection and whistle blowing, bearing in mind that there are existing federal statutes? Can a state government impose taxes on the revenues of a corporate entity because the revenues arise from gaming? Arguably, these issues are beyond the jurisdiction of the Law. The focus of this article is, however, a review of ten key changes introduced by the provisions of the Law.

Top Ten Significant Provisions

Establishment of the Lagos State Lotteries and Gaming Authority: The Law establishes a new regulatory authority for lottery and gaming-related activities. The Authority replaces the defunct Lagos State Lotteries Board (established under the now-repealed Lagos State Lotteries Law, 2004 (as amended)) (the Law, s. 107). All employees under the repealed laws will continue as employees of the Authority, unless their appointments and employments are revoked or terminated (the Law, s. 108).

The Law Regulates Lotteries and Other Gaming Activities: The Authority is empowered to license and regulate lotteries and lottery operators, as well as several other gaming activities and their operators. The regulatory purview of the Authority also extends to virtual and on-line activities. At first glance, there is no indication that the Law is restricted only to activities carried on within Lagos State. The Law empowers the Authority to create new licence categories, issue combined licences, and also issue different licences and authorizations for any activities similar to or closely related to existing statutory gaming categories. The currently recognized gaming categories are: casino, bingo, pool betting, sports betting or bookmaker operating licence, lottery, agent or affiliate, sweepstakes, slots or gaming machines, car racing, horse-racing, other games, other lotteries, remote gaming and amusement machines. See generally s.33 of the Law.

¹ The Lagos State Lotteries (Amendment) Law, 2008, the Lagos State Lotteries Law 2004, Casino and Gaming Regulatory Law 2007, Casino and Gaming Regulations 2008, Pools Betting Control Law, 2008 and Pools Betting Tax Law 2003.

² The Lagos State Lotteries Board was, for instance, the regulatory authority established under the Lagos State Lotteries Law, 2004 and the Lagos State Lotteries (Amendment) Law, 2008 to regulate lottery operators.

The Law Distinguishes Between Permits and Licences: The Authority distinguishes between permits and licences. While the Authority is mandated to issue “licences” in respect of the activities listed in s. 33 of the Law, the Authority, however, “may” issue permits in respect of (a) activities that fall under games, but do not require a licence, and (b) non-commercial and private gaming activities. It would appear from the Law that a license is issued in respect of specified categories of activities to be carried out on a commercial scale, while a permit would be issued for private gaming activities. A permit may also be issued in respect of non-specified gaming commercial activities, which in the opinion of the Authority, will not require a license. In more general terms, it may be difficult to distinguish a license from a permit, because they are essentially approvals. Some may argue that the difference lies in the nature of the approval each confers. Licenses typically have longer terms, and can be renewed. While a permit would typically be short-term or an approval for a one-off gaming activity.

The Additional Requirements for an Application for a Licence: The Law has additional requirements for getting a licence that transcend the financial and technical expertise of the applicant. These requirements seek to protect the interests of the customers of prospective licensees and the society at large. They include: (a) the existence of measures and mechanisms for data protection and privacy; (b) the existence of measures to protect underage, underprivileged and vulnerable people from exploitation, harmful or addictive gaming tendencies; (c) the presence of consumer protection measures; and (d) the presence of measures for rehabilitating persons suffering from the harmful effects of gaming. See s. 35 of the Law.

Certification of Key Employees of a Licensee: The Law requires the key employees of a licensee to be verified and certified by the Authority. (See s. 63 of the Law). “Key employees” have been defined to mean every company director, chief executive officer, chief financial officer, head of audit and risk, product manager, chief operations officer and casino pit manager. The key employees would make an application to the Authority which must show evidence of (A) undertaking responsible gaming training from a list of providers accredited by the Authority and (B) undertaking an anti-money laundering training programme in accordance with extant anti-money laundering legislation.

Protection of Vulnerable People: The Law extends protection not only to underaged people but also to people “easily physically or emotionally influenced or mentally hurt by gaming activities” (the Law, s. 95). The holder of a gaming licence or an employee of such holder must neither invite nor permit an underaged or vulnerable person to engage in a lottery or gaming activity, whether personally or through an agent, nor permit such underaged person to stay within the gaming premises, nor engage such underaged to operate a gaming equipment. In a situation where the licensee, not being initially aware of the underaged status of the person or vulnerable state of a customer, eventually becomes aware of the same, the licensee shall be liable to return the stake money given by such person and refuse to pay any winnings or prizes to such person.

Jurisdiction of Court: The Special Offences Court is the Court vested with Jurisdiction to try any company or person who violates any of the provisions of the Law. Where the penalty for any offence exceeds the jurisdiction of the Special Offences Court, the State High Court shall have jurisdiction in that regard (the Law, s. 85). The Law additionally prescribes specific dispute resolution procedures in the case of certain disputes. **First**, a “staker” (a person who is in possession of a valid ticket in a game obtained in consequence of payment of a prize) or “licensee” (or both) must primarily refer their dispute to the Authority, where there arises a dispute between a staker and a licensee in relation to payment of alleged winnings or gaming debt (the Law, s. 73). **Second**, where either party is not satisfied with the decision of the

Authority, they can further appeal against the decision to the Special Offences Court, by a written Application within 14 days of receipt of the decision of the Authority (the Law, s. 74).

The Law Sets out the Procedure for Whistleblowing: A person can furnish a report for the purpose of disclosing to the Authority any illegal, unethical or unlicensed operations in gaming activities and all other forms of breaches, including failure to comply with State laws, rules, regulations, or any other relevant national laws (the Law, s. 78). Any person who makes a valid, true and reasonable disclosure of any illegal activity is entitled to compensation by the Authority. Also, where the person making such disclosure suffers a detriment as a result of the disclosure, the informant is entitled to adequate compensation from any amounts remitted to the Authority as the outcome of the whistleblowing. However, the Authority is to ensure that all reports/disclosures are treated with absolute confidentiality and take all reasonable steps to protect the identity of the whistleblower. See generally ss. 79 and 80 of the Law.

The Law stipulates Customer Protection Measures: The law requires licensees to (a) establish clear customer service policies for assessing and handling situations (the Law, s. 82); (b) collect and process customers' information in accordance with the procedure set out in the Law and other applicable laws (the Law, s. 83); and (c) provide easily understood information about their complaint process in various formats and any other format specifically directed by the Authority (the Law, s. 84).

Taxes and Levies: The Law empowers the Authority to "stipulate such taxes/levies payable by all licensees for all the different gaming categories" (the Law, s. 71). This section of the Law is susceptible to challenge especially since there are clear constitutional provisions on the powers of the National Assembly and the State Houses of Assembly to impose taxes. Holders of a gaming licence shall be liable to file returns monthly and pay taxes and levies within the given time as stipulated by the Authority for all gaming activities (the Law, s.71(2)). In addition, it is an offence wilfully to fail to record revenue in the format specified by the Authority or wilfully furnish false or misleading information in any return required by the Law.

Conclusion

The efforts of the Lagos State government to consolidate the various lotteries and gaming regulation into a coherent whole is commendable. However, it would appear that some of the provisions of the law appear to legislate on matters beyond the legislative powers of State Houses of Assembly. Operators of lotteries and gaming activities with operations in Lagos State should nevertheless ensure that they comply with these new introductions pending any final judicial pronouncement on the affected provisions.



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