

This Statutory Instrument replaces S.I. No. 85 of 2023, Published on 18th August, 2023  
Statutory Instrument No. 87 of 2023

GAMBLING ACT  
(Cap. 19:03)

**GAMBLING (PROMOTIONAL COMPETITIONS) REGULATIONS, 2023**  
(Published on 25th August, 2023)

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SCHEDULES

IN EXERCISE of the powers conferred on the Minister of Trade and Industry by section 67 as read with section 135 (2) (k) of the Gambling Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Gambling (Promotional Competitions) Regulations, 2023. Citation
2. In these Regulations unless the context otherwise requires — Interpretation
  - “advertising material” means a method of attracting public attention to a product or business, by paid announcements in the print, broadcast, or electronic media, but excludes a promotional competition printed or displayed on any individual item of the goods promoted by that competition and which are for sale to the public;
  - “goods or services” means intangible or tangible products which are ordinarily manufactured, sold, supplied, distributed or delivered or in any other way form a substantial part of the business of the promoter involved in a particular promotional competition in the calendar year during which that promotional competition is held;
  - “information and communications technology” means technology that provides access to information through telecommunications;
  - “participant” means a person who enters, competes in or is otherwise eligible to win a promotional competition; and
  - “promoter” means a person who directly or indirectly promotes, sponsors, organises or conducts a promotional competition, or for whose benefit such a competition is promoted, sponsored, organised or conducted.

Application to conduct promotional competition

3. (1) A person, may make an application to the Authority to conduct a promotional competition in Form A set out in Schedule 1, and the application shall be accompanied by —

- (a) a fee set out in Schedule 2; and
- (b) such supporting documents and information as may be required by the Authority.

(2) Where the documents or information supplied by an applicant under this regulation change subsequent to the application being lodged with the Authority but prior to the application being decided by the Authority, the applicant shall notify the Authority, in writing, of the changes in the documents or information.

Minimum age of participant

4. (1) A promoter shall not offer or award to a person under the age of 18 years unless authorised to do so by that person's parents or legal guardian, a prize or benefit comprising or consisting of or involving goods or services which in terms of a law, code of conduct or ethics, agreement or rule may not —

- (a) be sold or supplied to;
- (b) be used by; or
- (c) in any other way benefit,

a person under that age.

(2) Advertising material in respect of a promotional competition which offers or awards goods or services contemplated in subregulation (1) shall not be directed at persons under the age of 18 years in respect of those goods or services.

Nature and information of prizes

5. (1) A promoter may not offer or award goods, services or benefits as prizes to a participant in a promotional competition —

- (a) in respect of which the sale, possession, use, distribution, rendering or delivery is unlawful;
- (b) in respect of which the possession, use, rendering, distribution or delivery is dependent on the payment of a fee or any consideration to any person in order to fully possess or use the prize;
- (c) in respect of which any licence, approval, endorsement, sanction, consent, agreement or any form of authorisation by —
  - (i) any regulatory body,
  - (ii) a person's legal guardian, or
  - (iii) any other person,is required for the lawful possession or use of those goods, services or benefits; or

- (d) if, subject to subregulation (2), the winner of the prize is expected or obliged to endorse, promote or advertise the goods or services of the promoter, unless that winner after being publicly announced as a winner of the promotional competition is informed of such in writing and consents to endorse, promote or advertise the goods or services of the promoter.

(2) If the winner referred to in subregulation (1) (d) is a person under the age of 18 years, any consent given by that person is not sufficient without the written consent of that person's parent or legal guardian.

(3) A person shall not directly or indirectly inform another person that a participant has —

- (a) won a competition, if —

- (i) no competition has in fact been conducted,
  - (ii) the person has not in fact won the competition,
  - (iii) the prize for that competition is subject to a previously undisclosed condition, or
  - (iv) the person is required to offer further consideration for the prize, after the results of the competition have been announced; or
- (b) a right to a prize –
- (i) to which the person does not in fact have a right,
  - (ii) if the prize was generally available or offered to all similarly situated persons or class of persons, or
  - (iii) if, before becoming eligible to receive the prize, the person is required to offer further consideration for the prize or to purchase any particular goods or services.

6. (1) A person may submit an entry form for a promotional competition at the premises of the promoter or through any information and communications technology platform. Entering promotional competition

(2) The promoter of a promotional competition shall not require any consideration to be paid by or on behalf of any participant in the promotional competition, other than the standard costs of posting or otherwise transmitting an entry form into a promotional competition.

(3) A promoter shall make known the cost of relaying an entry form for a promotional competition to all possible participants before they participate in the competition.

7. (1) If, despite every reasonable effort, a promoter cannot contact a prize winner, he or she shall retain the prize for three months after the draw. Unclaimed prizes

(2) At the end of the three months, if the prize remains unclaimed, the promoter shall under subregulation (1) provide the Authority with full details of the steps the promoter took to contact the winner and deliver the prize.

(3) If the Authority determines that the steps taken under subregulation (2) are satisfactory, then permission may be given for the promoter to conduct another draw to determine a new winner.

8. The rules of a promotional competition relating to the manner and date of announcing the winners of the competition shall be published in the advertising material promoting that competition. Rules of promotional competition

9. (1) The duration of a promotional competition shall not exceed a period of six months from the date of start of the promotional competition. Duration of promotional Competition

(2) Notwithstanding the provisions of subregulation (1), a promoter may apply for an extension of the period of conducting the promotional competition.

(3) The Authority shall, when assessing an application for extension under subregulation (2), consider –

- (a) the reasons of such an extension; and
- (b) if such extension would not compromise the fairness of the conduct of the promotional competition.

10. (1) A person who is a –

- (a) director, sponsor, member, business partner, employee, or agent of or consultant to a promoter; or
- (b) spouse, parent, child, brother, sister, business partner or associate of a person contemplated in paragraph (a),

shall not participate in a promotional competition held by that promoter. Prohibited participation

(2) Any advertising material in respect of a promotional competition shall be in legible type so as to alert prospective participants in that competition to the prohibition referred to in subregulation (1).

Inspection

**11.** (1) Any employee or any inspector appointed by the Authority may, for the purposes of monitoring compliance with the Act or these Regulations, enter any premises and may —

- (a) inspect those premises;
- (b) examine any object used or to be used in the promotional competition;
- (c) examine or make copies of or take extracts from any book or document pertaining to the promotional competition; and
- (d) seize any book, document or object, if he or she wishes to retain it for safe custody or for further examination, if it appears to provide proof of non-compliance with the Act or these Regulations.

(2) Any employee or any inspector may, in the company of a police officer of the rank of sergeant or above enter any premises and may perform all functions stipulated under section 117 (2) of the Act.

(3) Any person who acts under the provisions of subregulations (1) and (2) and subject to subregulation (4), shall immediately before commencing with the inspection —

- (a) demand audibly, admission to the premises from the person who appears to be in control of the premises;
- (b) identify himself or herself to the person who appears to be in control of the premises; and
- (c) if such person under subparagraph (a) is present, state the purpose for which he or she seeks entry.

(4) A person from whose possession or control, a book or document is removed under these Regulations may make copies therefrom at any reasonable time, at his or her own expense and under the supervision of a member of the Authority or the person so designated.

Exclusions

**12.** These Regulations shall not apply in respect of any operation authorised by a licence issued under section 33 of the Act.

Conduct of promotional competition by promoter

**13.** (1) A promoter —

- (a) shall not award a prize in a competition to —
  - (i) a winner of a competition if it is unlawful to supply those goods or services to that prize winner, but this paragraph shall not preclude awarding a prize to a person merely because that person's right to possess or use the prize is or may be restricted or regulated by, or is otherwise subject to, any public regulation, or
  - (ii) any person who is —
    - (aa) a director, member, partner, employee or agent of, consultant to the promoter or any other person who directly or indirectly controls or is controlled by, the promoter, or
    - (bb) a supplier of goods or services in connection with that competition; and
- (b) shall —
  - (i) prepare competition rules and submit them to the Authority before the beginning of the competition,
  - (ii) make the competition rules available to any participant without cost, and

- (iii) retain a copy of the full details of the promoter, full list of prizes offered, acknowledgement of receipt from the prize winner including all relevant details of the prize winner, details of the independent person who oversaw the competition draw, the means by which the prize winners were informed of their winnings and the competition rules for the prescribed period after the end of the competition.
- (2) An offer to participate in a promotional competition shall clearly state —
  - (a) the benefit or competition to which the offer relates;
  - (b) the steps required by a person to accept the offer or to participate in the competition;
  - (c) the basis on which the results of the competition will be determined;
  - (d) the closing date of the competition;
  - (e) the medium through or by which the results of the competition will be made known;
  - (f) that an independent accountant or a registered auditor shall oversee the conduct of the competition and shall report through the promoter's internal audit report or any other appropriate validation or verification procedures; and
  - (g) any place where, and any date and time on or at which —
    - (i) a person may obtain a copy of the competition rules, and
    - (ii) a successful participant may receive any prize.
- (3) The requirements of subregulation (2) may be satisfied either —
  - (a) directly on any medium through which a person participates in a promotional competition;
  - (b) on a document accompanying any medium contemplated in paragraph (a); or
  - (c) in any advertisement that —
    - (i) is published during the time and throughout the area in which the promotional competition is conducted, and
    - (ii) draws attention to and is clearly associated with the promotional competition.
- (4) The right to participate in a promotional competition shall be fully vested in a person immediately upon —
  - (a) complying with any conditions that are required to earn that right; and
  - (b) acquiring possession or control of the medium, if any, through which a person may participate in that promotional competition.
- (5) The right to any benefit or right conferred on a person as a result of that person's participation in a promotional competition shall be fully vested immediately upon the determination of the results of the competition.
- (6) A right contemplated in subregulation (4) or (5) shall not be —
  - (a) made subject to any further condition; or
  - (b) contingent upon a person —
    - (i) paying any consideration to the promoter for the prize, or
    - (ii) satisfying any further requirements other than those stipulated in terms of subregulation (2).
- (7) For purposes of these Regulations, a promoter who wishes to apply for a promotional competition shall pay an application fee set out in the Schedule 2.

Standard forms  
to be kept

**14.** (1) The minimum standards and the standard forms to be kept, associated with promotional competitions shall include —

- (a) full details of the promoter, including identity or registration numbers, as the case may be, addresses and contact numbers;
- (b) the rules of the promotional competition;
- (c) a copy of the offer to participate in a promotional competition;
- (d) a representative selection of materials marketing the promotional competition or an electronic copy thereof, but such copy shall be easily accessible in a general available format;
- (e) a list of all instances when the promotional competition was marketed, including details on the dates, the medium used and places where the marketing took place;
- (f) the names and identity numbers of the persons responsible for conducting the selection of prize winners in the promotional competitions;
- (g) an acknowledgement of receipt of the prize signed by the prize winner, or legal guardian, where applicable, and his or her identity number, and the date of receipt of the prize or where this is not possible, and proof by the promoter that the prize was sent by post or other electronic means to the winner using his or her provided details;
- (h) declarations by the persons contemplated in paragraph (g) made under oath or affirmation that the prize winners were to their best knowledge not directors, members, partners, employees, agents or consultants of or any other person who directly or indirectly controls or is controlled by the promoter or marketing service providers in respect of the promotional competition, or the spouses, business partners or immediate family members;
- (i) the basis on which the prize winners were determined;
- (j) the summary describing the proceedings to determine the prize winners, the date and place where that determination took place and whether those proceedings were open to the general public;
- (k) whether an independent person oversaw the determination of the prize winners, and his or her name and identity number;
- (l) the means by which the prize winners were announced and the frequency thereof;
- (m) a list of the names and identity numbers of the prize winners;
- (n) a list of the dates when the prizes were handed over or paid to the prize winners; and
- (o) in the event that a prize winner could not be contacted, the steps taken by the promoter to contact the winner or otherwise inform the winner of his or her winning a prize, and in the event that a prize winner did not receive or accept his or her prize, the reason for his or her not so receiving or accepting the prize and the steps taken by the promoter to hand over or pay the prize to that prize winner.

(2) A promoter shall ensure that an auditor oversees and certifies the conducting of the competition and shall report this through the promoter's internal audit reporting or other appropriate validation or verification procedures.

Offences and  
penalties

**15.** (1) A person shall not —

- (a) conduct a promotional competition without the approval of the Authority;
- (b) allow under-aged persons to participate in promotional competition;

- (c) fail to supply information on prizes; or
  - (d) charge more than the standard costs for relaying an entry into the competition.
- (2) A person who contravenes the provisions of subregulation (1), commits an offence and is liable to a fine of P5000.

SCHEDULES

SCHEDULE 1

Form A  
(reg. 3)

APPLICATION TO CONDUCT A PROMOTIONAL COMPETITION

1. In accordance with the Gambling Act and the Gambling (Promotional Competitions) Regulations:

I, .....  
*(insert full name of applicant)*  
of.....  
.....  
*(address)*

Hereby apply (with due authority) on behalf of .....  
for a permit to conduct a promotional competition.

2. Name of business which will be conducting the promotional competition:  
.....  
.....
3. Date and place of Incorporation and/or Registration:  
.....
4. Full particulars of all the Directors and Shareholders of the Company —

Name	Postal Address	Description (name of shareholder including percentage of shareholding and Director)

5. Have you or any of the persons named in paragraph 4 ever been convicted of any criminal offence involving fraud or dishonesty; declared bankrupt, or entered into any agreement with creditors?

If yes give particulars:

.....  
.....

**6. State the details of the competition**

**(a) Name of competition**

.....

**(b) The competition is in support of the promotion of**

.....

.....  
*(product or service being promoted)*

**(c) Is this a new or existing product/service? YES/NO**

**(d) What is the normal price of the product/service?**

.....

**(e) What would be the price of product/service during the competition?**

.....

**(f) Physical location of premises at which the competition will be conducted**

.....

*(if at multiple premises attach a list)*

**(g) The requirements for accepting the offer to participate in the competition**

.....  
.....

**(h) The method of entry in the competition will be**

.....  
.....  
.....

**(i) The method of draw:**

.....  
.....  
.....

**(j) The results of the competition will be publicised in**

.....



12. The name and address of the independent accountant or auditor, you shall appoint for the purpose of verifying the fairness of the competition:

.....  
.....  
.....

Date: .....

Signature: .....

.....  
*(Designation)*

NOTE: For the applicant: (Please ensure that the application is accompanied by the proof of payment of the prescribed application fees upon)

**FOR OFFICIAL USE ONLY**

Date of receipt of application: .....

Name and signature of receiving officer:

.....

List of documents to be submitted with the application:

1. Certified copy of Certificate of incorporation/registration
2. Proof of shareholding and/Directorship
3. Valid Tax Clearance Certificate
4. Certified copy of valid trading licence where applicable
5. Copies of ID's/passports of Directors and shareholders
6. Terms and Conditions of the Competition
7. Proof of payment of prescribed application fees
8. Letter of appointment if promoting the competition on behalf of another business entity
9. Proof of the value of the prizes
10. Any other supporting information

## DETAILS OF PRIZES

<i>Type of Prize</i>	<i>Additional Information Required</i>
1. Machinery or an electrical appliance	Detailed description including – make, model and accessories.
2. Motor vehicle including motorcycle	Detailed description including – new or second hand, make, model and accessories.
	NOTE: All on-road costs must be included in the prize
3. House and land	Detailed description including – exact location, size, valuation and nature (freehold, leasehold) (fully furnished), separate garage, landscaped garden, paved drive away.  NOTE: All legal, government and transfer costs must be included in the prize.
4. Travel and accommodation	Detailed description including – destination, number of people (whether adults or children), duration (days and nights), mode and class of transport, amount of spending money, transfer costs, type of accommodation (if meals or entertainment is included), validity period for prize, prize restrictions (availability, peak or non-peak periods, transferability).

SCHEDULE 2

APPLICATION FEES  
(reg. 3(1) and 13(7))

Price Value	Application fees
P 1 – P 9 999	P 2500
P 10 000 – P19 999	P 5000
P 20 000 – P 29 999	P 10 000
P 30 000 – P 39 999	P 15 000
P 40 000 – P 49 999	P 20 000
P 50 000 – P 59 999	P 25 000
P 60 000 – P 69 999	P 30 000
P 70 000 – P 79 999	P 35 000
P 80 000 – P 89 999	P 40 000
P 90 000 – P 99 999	P 45 000
P 100 000 +	P 50 000

MADE this 11th day of July, 2023.

MMUSI KGAFELA,  
*Minister of Trade and Industry.*