



## ONLINE GAMING

# THE NEW LEGAL FRAMEWORK FOR ONLINE GAMING AND BETTING

*The publication of Decree-Law 66/2015 of 29 April finally approved the New Legal Framework for Online Gaming and Betting (Novo Regime Jurídico dos Jogos e Apostas Online – “RJO”). This new legislation regulates the operation of online gaming and betting – games of chance, odds-based sports betting and totalisator and odds-based betting in horse racing.*

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With the entry into force of the RJO on 28 June, the operation of online gaming and betting activities will be allocated, by licence, to private legal entities incorporated in the form of a public limited company or equivalent. These entities must have their seat in a Member State of the EU or in a signatory State of the Agreement on the European Economic Area that is bound by administrative cooperation in the field of taxation and the fight against fraud. In the case of foreign companies, they must have a branch in Portugal.

For this purpose, the RJO broadens the scope of the regulation of operation and engagement in online gaming and betting. The new legislation gives the duties of control, inspection and regulation of these activities to the Portuguese Tourism Institute (*Instituto do Turismo de Portugal, I.P.*), through its gaming committee and its Department of Regulation and Inspection of Gaming. The Portuguese Tourism Institute’s scope of operation is extended to the various new types of gaming and betting and its powers and responsibilities area also increased.

This control, inspection and regulation body is responsible for checking compliance with all the requirements of good standing, and economic, financial and technical capacity that must be met by any company applying for a licence to operate online gaming and betting activities. Licences or other forms of authorisation issued by other States are not valid in Portugal.

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The entities currently authorised to operate State lotteries and games of chance in casinos in Portugal are able to apply for licences to operate online gaming and betting because they have met the requirements for good-standing, technical capacity, and economic and financial capacity.

These entities must make an application in the appropriate form to the control, inspection and regulation body within 90 days of the entry into force of the RJO. Besides this, they must also comply with the other conditions and obligations set out in annex I. These include the payment of any fees due, the provision of security and the certification of the technical system for gaming.

This new legislation has finally brought Portugal into line with the broader movement of regulation of online betting that we have seen spread across Europe in recent years. It is now hoped we can put an end to more than a decade of illicit and unlawful internet gaming operations with no effective legal control and, above all, without the State having the legitimate and more than justified tax revenue that it will now bring in.

As a consequence of the legalisation of this activity, amendments have been made, among others, to the legislation that enshrines the Advertising Code (*Código da Publicidade*). This, like the tax rules on allocation of revenue set out in the RJO, may amount to a very significant increase in the sources of revenue for clubs, federations and people who play sports.

This increased revenue will come firstly because it will be possible (legal) for companies that operate online gaming and betting to sponsor sporting activities. Secondly, a significant part of the tax charged on odds-based sports betting, 37.5%, will be allocated to the entities that are the subject of the betting. This revenue is to be shared by the clubs or the people who play the sport, as applicable, and by the federation that organises the event, including the leagues if any. The allocation of the revenue will be set by an order of the members of the Government responsible for finance, sport and tourism.

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