

Nigeria

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INTRODUCTION

Legal definition of 'gambling'

1 | What are the legal elements required for an activity to be regarded as gambling?

In Nigeria, gambling is conducted according to laid-down legislation on gambling that is referred to as 'lottery' in most jurisdictions, which collectively determines the types of gambling permitted in the country. The legal elements of gambling are determined at two levels: nationally and individually among the 36 states that make up the Nigerian Federation.

Consequently, gambling is defined to encompass different elements of gaming in each legislation. At the national level, the National Lottery Act defines gambling to include 'any game, scheme, arrangement, system, plan, promotional competition or device for the distribution of prizes by lot or chance, or as a result of the exercise of skill and chance or based on the outcome of sporting events or any other device which shall be operated according to a licence'. The gambling licences granted by the National Lottery Regulatory Commission (NLRC) include, but are not limited to, the following:

- charitable lottery;
- online lotteries;
- promotional lottery; and
- sports lottery.

As an example of a state-level definition, in Lagos, gambling is defined in the Casino and Gaming Regulatory Authority of Lagos State as 'the wagering of a stake of money or anything of value on the unknown result of a future event at the risk of losing all or a portion for the sake of a return, irrespective of whether any measure of skill involved or not and encompasses all forms of gaming and betting'.

Therefore, the legal elements required for an activity to be regarded as gambling is specified by the applicable laws of the different jurisdictions.

Remote activity

2 | With respect to remote or other cross-border activity, where is the wager deemed to take place?

The area of cross-border activity concerning remote gambling has not been specifically defined in Nigerian legislation. Presently, there is no specific law that regulates remote gambling in Nigeria, although it is recognised and all licences are implied to include remote gambling. However, from previous experience, a wager is deemed to have taken place from the location of the consumer, provided the punter or consumer was not targeted by the foreign operator.

Age restrictions

3 | What is the minimum age for participating in lawful gambling?

The minimum age for participating in lawful gambling is 18. Section 34 of the National Lottery Act states that it is an offence for any person to knowingly permit a child or young person below the age of 18 to participate in gambling. This is also the minimum requirement across all the states of the Federation.

Penalties

4 | What are the penalties for offering unlawful gambling?

The penalties for offering unlawful gambling under the National Lottery Act (national law) is imprisonment up to a term of three years or a fine of at least 20,000 naira, or both. At state level, the penalties vary from state to state. For instance, in Lagos state, the penalty according to the Casino and Gaming Regulatory Law is imprisonment up to a term of five years or a fine of 20 million naira, or both. It is also worth noting that the different gambling regulators in their respective jurisdictions have it in their authority to impose sanctions not expressly stated in the law.

5 | Does the law penalise the gambler directly for participating in unlawful gambling?

The law does not penalise the gambler directly for participating in unlawful gambling.

Social and non-profit gambling

6 | Are there exceptions for social gambling, or charitable or non-profit gambling?

There are exceptions for social or charitable gambling in Nigeria. The licensing conditions for social gambling in Nigeria are less stringent. Some forms of social gambling are not taxed but must be licensed for a fee. It mostly depends on whether it is for charitable, social or promotional purposes.

Regulatory authorities

7 | What entity regulates land-based and remote gambling, and what are the regulator's powers?

Land-based gambling and remote gambling are regulated at both the national and state levels. The NLRC regulates gambling at the national level and the Federal Capital Territory. At the state level, some states are regulated by a specific gaming board, authority or commission (eg, in Lagos it is the Lagos State Lotteries Board; in Anambra it is the Anambra State Gaming Board), while in less regulated states, gambling is overseen by the state's internal revenue board.

The regulator grants a gambling licence upon fulfilment of the conditions for application. It also has the power to revoke or suspend a licence when an operator defaults or does not comply with the law. They also ensure enforcement and impose administrative sanctions on non-compliant operators. Overall, their functions revolve around ensuring gambling activities are conducted under the law to create a sanitised gambling society and protect the diverse sectors of society.

Anti-money-laundering regulations

- 8 | Are gambling licensees considered financial institutions for purposes of anti-money-laundering and similar financial services regulatory requirements or are they otherwise subject to such requirements?

Gambling licensees are not considered financial institutions for purposes of anti-money laundering. However, licensees are considered 'designated non-financial institutions' for purposes of anti-money laundering regulatory requirements. They are also subject to other regulatory requirements such as:

- the Central Bank of Nigeria guidelines;
- the Money Laundering (Prohibition) Act (As Amended);
- the Special Control Unit against Money Laundering; and
- the Terrorism (Prevention) Act.

LAND-BASED GAMBLING

Types

- 9 | What types of land-based gambling are permitted in your jurisdiction, and is gambling regulated at a national or subnational level?

Land casinos, sports betting (bookmakers), slot machine operators, raffles and Lotto shops are the types of land-based gambling permitted in Nigeria. However, the regulatory authorities have the power to create new licences to accommodate the ever-growing gambling industry. Gambling is regulated at both the national and state (subnational) levels, but some states run their own franchised lottery through private operators.

Establishment licensing

- 10 | Please describe the licensing criteria to operate land-based gambling of each type or classification. Does your jurisdiction limit the number of available licences?

For casino licensing, an application must be made to the gambling regulatory authority in the jurisdiction or state in which the operator wishes to conduct its operations. The application shall consist of an application letter, non-refundable application fee (prescribed by the authority), documentary evidence of business incorporation, a detailed business plan or proposal of the proposed casino, its financial capability and its technical structure. Upon the submission of the application, the regulatory authority makes its decision on whether or not to grant a licence to the operator or applicant.

All other forms of land-based gambling licensed in the country follow the same application process subject to further conditions being stipulated by the regulatory gambling authority.

There are no limits on the number of available licences in the country. However, the regulatory authorities may place a temporary restriction on the number of licences issued subject to certain conditions prevailing at such times.

Director, officer and owner licensing

- 11 | Must individual directors, officers or owners of licensees also be licensed or reviewed for suitability?

Based on the law currently applicable, individual directors, officers or owners of licensees are not required to be licensed but are reviewed for suitability. However, there are proposals and statutory amendments at both national and state levels to reflect current trends in this regard.

Location

- 12 | May a gambling location be part of a resort, restaurant or other multi-purpose location? What limitations apply?

Gambling may be permitted to be a part of a resort, restaurant, hotel or other multipurpose location. A popular example of gambling in a hotel is the Federal Palace Hotel casino situated in Lagos state. Lagos state provides two categories of casino licence: a stand-alone casino and a hotel-casino. Licence limitations apply; for instance, the gambling resort or hotel must not be situated close to a school or in a residential area.

Casino development

- 13 | What considerations arise in developing a casino resort project that are not typical to other resort development?

There are currently no casino resort projects in the country. However, casino projects of whatever sort are subject to particular considerations. Such particular considerations are determined by the regulatory authority in the jurisdiction where the licensee operates. The considerations include, but are not limited to:

- zoning;
- minimum financial requirements;
- types of casino; and
- technology.

Passive/institutional ownership

- 14 | Are there provisions for passive or institutional ownership that allow for exemption or modification of licensing requirements?

There is no such provision for passive or institutional ownership that permits the exemption or modification of licensing requirements.

Responsible gambling

- 15 | What responsible gambling obligations apply to licensees?

Currently, there are no responsible gambling obligations applicable to licensees in the country. There is also no centrally maintained exclusion list of persons who are not permitted to gamble. However, with the recent changes and developments in the gambling industry in Nigeria, regulations on responsible gambling are currently pending for passage both at the national level and in some of the states.

Taxes

- 16 | What type of tax and what tax rate applies to each form of lawful land-based gambling activity?

The tax rate differs across states in the country. Gambling operators are licensed at the national level and in the state where they choose to operate. Therefore, they pay tax in the jurisdiction under which they are licensed and also taxes applicable to companies such as companies income tax, withholding tax, etc. This has brought up the issue of double taxation on licensees within the country.

REMOTE GAMBLING

Types

17 | Is remote gambling permitted and, if so, what types?

Remote gambling is permitted throughout the country, although it is not yet codified in regulation at the national level; however, some states have already passed a remote gambling regulation. The most common form of remote gambling offered in Nigeria is sports betting, which is also conducted through mobile gaming (via telecommunications networks) and the internet.

In practice, a licensed operator can provide mobile gambling services to Nigerian residents provided they meet the requirements of the telecommunications operator and the Nigerian Communications Commission (NCC).

Licensing

18 | What are the criteria for obtaining a licence to operate remote gambling?

There is no licence distinction between land-based or remote operations, so in essence, the criteria are essentially the same; however, the different states may have other criteria peculiar to them.

Ordinarily, an application must be submitted to the concerned gambling regulatory authority. This application shall consist of an application letter, a non-refundable fee, evidence of business incorporation in Nigeria, a detailed plan of the proposed gaming activity, the business structure, and evidence of financial and technical structure.

19 | How do the licensing criteria for remote gambling operators differ from those applicable to land-based operators?

There is no difference in the licensing criteria applicable to remote gambling operators and land-based operators.

Cross-border gambling

20 | May operators located in other countries offer internet gambling to consumers in your jurisdiction without obtaining a licence there?

The law has not yet been amended to sanction or penalise such operators, but local operators have pushed for legislation that prohibits the targeting of Nigerian punters by unlicensed operators, while regulators also view such activity from the point of tax losses. In practice, some regulators such as Lagos state have, in the past, issued cease-and-desist notices to operators.

21 | May operators licensed in your jurisdiction offer internet gambling to consumers in other countries?

Locally, there is no law prohibiting Nigerian operators from offering internet gambling to consumers outside Nigeria. However, such operations will be subject to anti-money laundering regulations regardless.

Taxes

22 | What tax rate applies to each form of remote gambling?

Gaming tax rates apply uniformly to both land-based and remote gambling. At the national level, it is 20 per cent of gross gaming revenue, while in states like Lagos state it is 2.5 per cent. These rates are determined from time to time, according to the concerned regulatory authority. The National Lottery Regulatory Commission (NLRC) has recently mandated its licensed sportsbook operators to pay 1 per cent and 2 per cent gross

on monthly sales turnover to the NLRC and National Lottery Trust Fund respectively when due. Also, instances where shortcode services (Short Message Service or Unstructured Supplementary Service Data) are used by operators to provide betting services, the following tax rate will be applicable: 2 per cent and 3 per cent on gross monthly sales turnover to the NLRC and National Lottery Trust Fund respectively when due.

Also, the Federal Inland Revenue Service has mandated 5 per cent value-added tax (VAT) on several taxable consumer goods and services. Lottery and gambling activities have been included in this new development. It is pertinent to note that the collection of VAT will be an automated process to ensure efficiency and transparency. This development will take effect in the nearest future in the country.

INTELLECTUAL PROPERTY

Patents

23 | Are gambling games - land-based or remote - patentable in your jurisdiction?

There are no specific factors in determining whether a particular game may be patented. However, an operator that wants to take out a patent on its game can do so by registering with the Ministry of Trade and Investment.

Trademarks

24 | Are there limitations on how brands, logos or other types of marks may be used in promoting gambling games?

There are limitations on how brands, logos or slogans may be used in promoting gambling games in Nigeria. These limitations are under the consumer protection standards, advertising standards and the provisions of the diverse gaming legislation. While promoting gambling games, operators must take into consideration their target audience to avoid promoting their services to children and young persons below the age of 18.

ADVERTISING

Restrictions

25 | What types of restrictions apply to advertising gambling games?

Gambling advertising in Nigeria is regulated by a combination of national and state gaming laws and regulations, the Consumer Protection Council, the Advertising Practitioners Council of Nigeria and Nigerian Communications Commission (NCC) guidelines. While the National Lotteries Regulation specifies that all licensees must prepare a code of practice for advertising that restricts the participation of children, young and vulnerable persons in gambling, there are no specific regulations that restrict advertising gambling games in Nigeria.

Currently, there is a draft law specifically setting standards for gambling advertisements pending before the Commission.

SUPPLIERS

Licensing

26 | What types of suppliers to gambling operators require licences?

The law currently does not require gambling suppliers of services or goods to apply for a licence. At the national level, and even in some of the states, the supplier is required to have a certification from a reputable institution.

Registration

27 | If licensing is not required, is there a registration or other process suppliers are subject to, and what triggers that process?

Registration with the National Office for Technology Acquisition and Promotion (NOTAP) is mandatory if the supplier is a foreign supplier of technology or patented invention. The National Office for Technology Acquisition and Promotion Act states that it is compulsory to register all contracts and agreements for the transfer of foreign technology entered into by any person in Nigeria with NOTAP.

LABOUR AND EMPLOYMENT

Wage and hour rules

28 | Are there particular rules governing hours and wage treatment for casino employees?

There are no specific rules governing hours and wage treatment for casino employees in Nigeria; however, in recent times, some employees through their unions have begun to review such issues with their employers.

Collective labour

29 | Must casino employees be members of labour unions or similar organisations?

Membership is open to all employees, but it not compulsory.

ACQUISITIONS AND CHANGES OF CONTROL

Change of control

30 | How are licensee changes of control, and substantial changes in shareholdings of licensees, addressed?

Licensee changes of control and substantial changes in licensee shareholdings must be reported to the gambling regulatory authorities. There are certain limitations on the persons who can have a financial interest in a licence. Section 22 of the National Lottery Act states that 'no person holding a political office or in the public service of the Federation shall have any financial interest in a national licence or licensee'. Therefore, civil servants, political or public office holders or people related to the above persons are not allowed to hold any substantial or financial interest in a licence.

Bankruptcy

31 | How are gambling licences treated in bankruptcy?

In Nigeria, no law deals specifically with how gambling licences are treated in bankruptcy, but in practice, a creditor must seek the consent of the regulator. However, licensees' operations are subject to bankruptcy laws under the Companies and Allied Matters Act.

QUASI-GAMBLING

Regulation

32 | How are forms of 'quasi-gambling' regulated? Are any treated as 'gambling', and what triggers such treatment?

The various forms of quasi-gambling are all treated as gambling subject to certain parameters dictated by the dynamics of each game and the type and size of the game. However, the National Lottery Act refers to gambling as a lottery and defines a lottery to be any 'game of chance or skill'.

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Licensing

33 | Does your jurisdiction license quasi-gambling operators?

Yes, quasi-gambling operators are licensed. The licensing process is not as stringent as the process for land-based or remote gambling. Licensing requirements are issued on a case-by-case basis as stipulated by the gambling regulators.

Other restrictions

34 | Does your jurisdiction impose other restrictions on the conduct of quasi-gambling activity, including restrictions on advertising, age of participation, limitations on prizes, etc?

In practice, restrictions are imposed on the conduct of the quasi-gambling activity. These restrictions are placed on advertising, age participation and prize limitations. There are minimum standards and requirements for advertisements in Nigeria and they must be adhered to. Also, advertising must not be targeted at young and vulnerable persons.

LITIGATION

Recent cases

35 | What, if any, significant litigation involving the gambling or quasi-gambling sectors has your jurisdiction seen in recent years?

In recent years there have been two landmark cases involving the gambling sectors in Nigeria: *NLRC & Anor v AG Lagos State* and *Western Lotto Nigeria & Wesco Pool & Lottery Ltd*. In both cases, the major issues were:

- whether an operator with a national licence was mandated to obtain a state licence too; and
- whether the state boards had the right to penalise operators with national licences for not obtaining the individual state licences.

The courts have ruled that the national licence grants operators unfettered access to ply their trade all over the country without any disruptions from the state government authorities. While this decision of the court sounds like a victory, it will cause an upheaval in the system because the Constitution of Nigeria provides the specific jurisdictions of the different levels of government. At the state level, the individual state

governments have taxing powers that cover, inter alia, entertainment tax, which include pools, betting and lotteries, and gaming and casino taxes. The question arises as to how states should tax gaming establishments that they have not licensed to operate.

UPDATE AND TRENDS

Key Developments of the past year

- 36 | Highlight any noteworthy developments or trends in the gambling or quasi-gambling sectors (legal or business) and their potential implications.

No updates at this time.