

Peruvian Government receives comments to the draft of the Regulations of the Remote Gaming and Sport Betting Act

The Ministry of Foreign Commerce and Tourism (“[MINCETUR](#)”) has published the draft of the Regulations of the Law No. 31557, Remote Gaming and Sport Betting Act (the “[Draft Regulations](#)”).

Law No. 31557 has been published on August 13th, 2022 to regulate the exploitation of remote gaming and sports betting, by setting rules regarding, among others, (i) authorizations to operators of such activities and of related services, (ii) the appointment of MINCETUR as the regulator to authorize operators and supervise compliance with the applicable legal framework (iii) establishing infractions and applicable sanctions, and (iv) the creation of a special tax on remote gaming and sports betting.

The Act is intended to regulate the activities of all participants involved in remote gaming and sports betting businesses such as those who operate technological platforms, operate remote gaming and sports betting premises, and develop activities as certifier laboratories¹. For such purposes, the following definitions should be taken into account:

- "Remote sports betting" means remote gambling that takes place on a technological platform, where bets are allocated on the outcome of a sports event or any other fact or circumstance that may occur in said sports event. The sports events are the scheduled and public physical-athletic human sports games only from national or international leagues or federations.
- "Remote games" means remote gambling games different than “remote sports betting”, that take place on technological platforms through the use of electronic, telematic, informatics or interactive means streamed by open communication networks or restricted networks, such as television, internet or fixed or mobile telephony.
- “Technological platforms” means the group of databases, applications and informatic means of communication, hardware and software resources and/or components, through which the exploitation of remote gambling games is carried out.

Public and private entities, civil society organizations and also individuals may submit their comments and suggestions to the Draft Regulations, until December 2nd, 2022. The main provisions of the Draft Regulations are the following:

Section 1 – General Provisions

The Draft Regulations establish the main definitions, such as virtual events betting, gamer’s remote device, payment gateway, gaming and control programs, among others.

¹ It should be noted that the technological platforms, software, progressive systems, payments gateways and the main components and services must also obtain an authorization and registration (homologation) regardless the authorization issued to the operator.

In this section, the functions of the MINCETUR and the Peruvian Tax Agency (SUNAT, by its acronym in Spanish) are established. MINCETUR is entitled to regulate, authorize, revoke, control and sanction the Remote Gaming and Sport Betting Activities (the “Activities”). It could also request the blocking of the unauthorized web sites. The powers of SUNAT are related to the Activities’ specific tax. Local governments could issue the operating license to those premises previously authorized by MINCETUR to be used as Activities’ premises.

Any individual could request the voluntary exclusion from the technological platforms and participate in the Activities.

Section 2 – Conditions and requirements of the authorization procedures

The Draft Regulations expressly set forth that the operating authorization for technological platforms will only be granted to companies incorporated in Peru or to foreign companies with branches (“sucursales”) incorporated in Peru. Foreign companies shall incorporate a company in Peru and the legal representative must be domiciled in Peru.

Remote gaming and remote sport betting are considered as separate activities. Then, the operating authorizations for technological platforms would be issued for each activity. Also, the operations shall be performed using Peruvian currency or considering the prevailing exchange rate of each day.

The Draft Regulations establish the legal requirements for the issuance of the operating authorization for technological platforms such as the affidavits, stand-by letters of credit, economic, financial and background assessments, among others. The procedures related to certifier laboratories authorization, service providers registry, authorizations to operate the premises where the Activities are performed and the homologation of technological platforms and payment gateways, are also considered in the Draft Regulations.

The maximum term for the administrative procedures is thirty business days from the submission of the application form and its additional requirements. If MINCETUR does not issue the resolution within the maximum term, the request could be considered as rejected. It is mandatory to inform to the MINCETUR about the beginning and ending of the activities, even when the operator has the corresponding authorizations.

Section 3 – Obligations for the authorizations’ holders

The Draft Regulations provide the obligations and prohibitions applicable to the holders of authorizations to operate and perform the Activities, such as the obligation of registry and identification of the gamers and the prohibition to transfer or assign the authorizations granted by MINCETUR.

Section 4 – Advertising

The Draft Regulations sets forth the requirements applicable to the publicity and sponsorship of the Activities, which include the obligation to include the phrase “Los juegos y apuestas deportivas a distancia realizadas en exceso pueden causar ludopatía” (excessive use of remote gaming and sport betting could cause pathological gambling).

Section 5 – Gaming operations

The conditions for the gaming operations such as the access of the gamer, characteristics of the bet and the prizes, the game designs, among other matters are provided by the Draft Regulations.

Section 6 – Supervision, control and sanctioning provisions

The provisions of the Draft Regulations include the supervision, control and sanctions faculties of the MINCETUR, and the administrative infractions and sanctions. Depending on the conditions of the infraction (Annex I of the Draft Regulations), the sanction could be -among others- penalties from 50 Peruvian Tax Units (approx. USD 60,500 for this year) to 200 Peruvian Tax Units (approx. USD 242,100 for this year).

Complementary provisions

Finally, the Draft Regulations set forth the terms and measures to implement the new legal requirements for the performance of the Activities. It is also established that MINCETUR could issue additional provisions for the Act and its Regulations compliance.

The Act will become effective 60 days after the publication of its definitive regulations, which shall be issued by the MINCETUR within 120 working days from the date of the publication of the Act in the Official Gazette. The Act shall come into force 60 days after the publication of its definitive regulations in the Official Gazette.

The comments and suggestions to the Draft Regulations could be registered in the [link](#).

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