Authorized Persons

The provisions in question: Section 110, Section 110a, Section 110b, Section 111, Section 123a, Section 133 of the GA and the Transitional provision

Proposed change: The MoF's authority to determine the scope of the authorization and the conditions of testing in the decision on authorization is amended.

A new obligation is laid down for Authorized Persons: they will have to inform the MoF, without undue delay, about any changes in the facts, based on which a licence was issued and to submit documents about them within 30 days of the made change. Examples include personnel changes in company bodies, to which the proof of clean record can be related. This obligation does not apply to cases that the MoF is able to find out itself by accessing public registers – e.g. the Commercial Register. The MoF will publish the range of such information on its website.

The possibility of changing licences, at the request of both the authorized person as well as the Ministry of Finance, is newly introduced. The Ministry may only initiate the change of a licence for two reasons: the change of other data specified in a licence (e.g. the name or the registered office of the company) and, in justified cases, the change or the supplement of the conditions of proper performance of the assessment. The next two paragraphs state the conditions for such a change - the changed licence will only be issued for the duration of the original licence and the change can only be made if the conditions for its issuing continue to be met.

In addition, the reason for the cancellation of licences by the MoF is supplemented: it is the violation of terms stated in a licence.

Completely newly introduced are misdemeanours of Authorized Persons, for which it is possible to impose a fine of up to CZK 1 million. The Ministry of Finance is competent to discuss them. This is the violation of the obligation to inform about the changed facts and the violation of the terms and conditions set out in licences or of other obligations under the expert assessment according to the law.

The transitional provision, in connection with the need for a new certification of Section 15 par. 4 of the GA (the new definition of net loss), allows an Authorized Person to certify the net loss in the "old" way within max. 3 months of the effective date of this amendment.

The MoF's authorization to issue the decree for requirements for the necessities of output documents as well as the newly issued Report on Changes Assessment is specified.

Impacts: the MoF, but also an Authorized Person, get authority to change licences. The MoF then also gets the authority to initiate administrative proceedings on the cancellation of licences even due to violations of the terms of the licences.

IFGR's opinion: It could be deduced from the Explanatory Memorandum that the MoF will proceed with the proceedings on the revocation of licences in the case of repeated violations or a fundamental violation.

When will the Decree about the minimum requirements for Reports on Changes Assessment be regulated?

Operator's procedure in case of technical changes to the gaming system

The provisions in question: Section 112a to Section 112c, Section 123 of the GA

Proposed change: This is a completely redesigned procedure for an operator and an Authorized Person in cases of changes to the gambling software or to the whole gaming system.

There is an obligation to keep a record of all corrections and other changes to the gambling software or to the whole gaming system, through which a gambling game is operated. A similar obligation is currently imposed in the basic licence - to keep the book of corrections. The minimum requirements for such record, its form (paper/electronic), the method of recording individual records and the period of their retention are laid down. This record must be provided by an operator to an Authorized Person, who will use it to prepare the Report on Changes Assessment.

There is an authority laid down for an operator to take immediate action in the gaming system in order to correct an error when complying with the conditions in question, and to make a change to the system that will not be certified in advance. However, the obligation of an operator to send to the MoF, prior to this action, a notification containing the mandatory necessities, to carry out a new expert assessment within two months and to submit the application for a change of the basic licence is also related to this. The assessment must be attached to the application itself, otherwise the application will not be taken into consideration.

The Act also provides for a simpler procedure for cases of making small-scale changes, which, by definition, are such changes not affecting technical parameters set out in the Act or in the Decree on Technical Parameters (e.g. the change of the background colour of the game window). These small changes can be reported together once a month. In case that no such change is made within a period of 12 months, an operator is obliged to report this, too.

For the sake of completeness, we state that major changes (such as adding a new server, adding a new subsystem) must always be certified in advance and cannot be operated until a change to a licence is made.

In addition, the obligation to audit these small changes every 12 months is stipulated, resulting in the Report on Changes Assessment to be issued by an Authorized Person and submitted to the MoF within 14 days. The moments, from which the reported 12-month period are counted, are adjusted. It is also stated that, if the Report on Changes Assessment shows that these minor changes are, in summary, a major change or that they are not small-scale changes, an application for a change of the basic licence must be submitted, that is within 2 months of the date of the report handover.

The introduction of the new obligations also corresponds to the introduction of new offenses and sanctions ranging from CZK 500,000 to 50 million.

Impacts: Given the current state, the MoF should be, according to the obligation to report any changes to facts, any even smallest change to the gambling software or to the gaming system. **The new regulation provides exceptions to this basic obligation.**

IFGR's opinion: The deadline for issuing the Report on Changes Assessment is short. Furthermore, the period of 2 months for issuing a new expert assessment is up for discussion with Authorized Persons.