

### *The Sikkim Online Gaming (Regulation) Rules, 2009*

The Sikkim Online Gaming (Regulation) Act, 2008 has provided a legal framework for online gaming in India. This is a revolutionary piece of legislations as it has tried that not other State has been able to achieve. The 2008 Act has been [notified](#) (PDF) and it is now operational in the State of Sikkim. Even an [authorised officer](#) (PDF) has been appointed under the 2008 Act by the Sikkim Government.

In order to make the provisions of 2008 Act operational, the [Sikkim Online Gaming \(Regulation\) Rules, 2009](#) (PDF) were formulated. [Perry4Law](#) and [Perry4Law's Techno Legal Base \(PTLB\)](#) are discussing the provisions of the Rules 2009 for the larger benefit of all stakeholders.

Rule 2 (b) of the Rules 2009 provides that “advertisement” includes every form of advertising or promotion, whether by means of the Internet, in a radio or television programme or message (whether broadcast or not), in a written or printed publication, by the display of notices, signs, labels or showcards, by means of circulars or other documents or through any other medium.

Rule 2(e) of the Rules 2009 provides that “OGS” means a computer or system or systems of computers by means of which online gaming is conducted, (including but not limited to equipment or disseminating or distributing a result, or part of a result or determining a winning player) in relation to or used in connection with, online gaming as well as;

- (i) All its associated components, and
- (ii) Its operating systems and applications software.

Rule 2(f) of the Rules 2009 provides that “operator” in relation to any On-line game, means the person by whom it is conducted.

Rule 2(g) of the Rules 2009 provides that “person” includes a Partnership Firm or Company registered in accordance with the provisions of the law relating to the registration of such Partnership Firm or Company as the case may be, for the time being in force in the State.

Rule 2(h) of the Rules 2009 provides that “player” means in relation to an online gaming a person participating in on-line game with the operator, or the overseas licensed operator

Rule 2(j) of the Rules 2009 provides that “website” means an electronic communication or set of electronic communications which complies with the Hyper Text Transfer Protocol and may be accessed and viewed in visible and legible form by any person having ordinary access to the global systems of inter communicating computers known as the Internet.

Rule 3 of the Rules 2009 provides that the games of (i) Roulette, (ii) Black Jack, (iii) Pontoon, (iv) Punto Banco, (v) Bingo, (vi) Casino Brag, (vii) Poker, (viii) Poker Dice, (ix) Baccarat, (x) Chemin-de-for, (xi) Backgammon, (xii) Keno, (xiii) Super Pan 9 may be played online in the manner provided under these Rules.

Rule 4 of the Rules 2009 provides that every person interested to operate online games specified in Rule 3, shall make an application to the Government in Form I accompanied by a Bank Receipt for five hundred rupees as application fee.

Rule 5(1) of the Rules 2009 provides that on receipt of an application under rule 4, the Government shall examine the application and after making such inquiry as it considers necessary, may grant a provisional licence in Form-2 on payment of a fee of one lakh rupees to enable the licensee to set up the necessary infrastructure and other requirements so as to be in a position to commence operation of on-line games and the sports games and thereafter, on the satisfaction of the Government that the applicant is fully ready to commence operations of online gaming and sports gaming activity and has complied with the stipulations prescribed in the said provisional licence and such other terms and conditions prescribed in the Act and Rules, the Government may grant a regular licence for operation of online games and sports games in Form-2A for five years on payment of a fee of five lakh rupees.

Rule 5(2) of the Rules 2009 provides that the license granted under sub-rule (1) shall be valid for a period of one year which may be renewed for a further period of one year on payment of a renewal fee of one lakh rupees.

Rule 6(1) of the Rules 2009 provides that the licensee shall pay to the Government an Online Gaming levy at the rate of one percent (1%) of the gross gaming yield. Rule 6(2) of the Rules 2009 provides that the online gaming levy for the proceeding month shall be paid by the licensee by the fifteenth day of every following month duly filling the details in the statement in Form-3 failing which a penalty equivalent to one-fifth of the levy will be charged on the licensee. Rule 6(3) of the Rules 2009 provides that a licensee shall be required to execute a Bank Guarantee of five crore rupees in favour of the Government as security deposit every year at the time of the issue and renewal of the license. On expiry of the period of one year, the licensee shall have to give a fresh Bank Guarantee of an equal amount to the Government.

Rule 7 of the Rules 2009 provides that every licensee shall, in relation to any online game, maintain a website the front or home page of which shall contain the following, namely:

- (a) Its full name and address of its registered office,
- (b) The number of license under which the online game is conducted,

- (c) The date on which the license was originally granted,
- (d) A statement that the online game is regulated in Sikkim State,
- (e) Hyperlink to the websites of the Government and players Anonymous,
- (f) One or more hyperlinks to a page or pages setting out:
  - (i) A summary of the arrangements for registration,
  - (ii) A statement that persons under the age of eighteen years are not permitted to register or to participate in the game,
  - (iii) A statement that online game debts are enforceable in law in Sikkim.

Rule 8(1) of the Rules 2009 provides that every advertisement of online game shall contain URL of or in the case of an advertisement on a website, a hyperlink to the website maintained under Rule 6.

Rule 8(2) of the Rules 2009 provides that every advertisement of online game shall comply with the following general requirements, namely:-

- (i) It shall not be indecent or offensive,
- (ii) It shall be based on facts, and
- (i) It shall not be false, deceptive or misleading in any material particular.

Rule 8(3) of the Rules 2009 provides that without prejudice to sub-rule (2), every advertisement of online game shall comply with the following requirements, namely:

- (i) It shall not contain any Statement as to the legality or otherwise of online game betting in any other jurisdiction,
- (ii) It shall not be directed at any jurisdiction in which online game or any kind of online game is prohibited,
- (iii) It shall not have any sexual content,
- (iv) It shall not be directed at person under eighteens years of age,
- (v) It shall not contain any material in breach of copyright,

(vi) If it make any claim as to the potential payout of a game, it shall contain sufficient information to enable a person to determine readily and easily the expected percentage return to him over a period of time, disregarding any exercise of skill by him.

Rule 8(4) of the Rules 2009 provides that if it appears to the Government that any advertisement of online game does not comply with sub-rule (2) or (3) they may direct the operator either:

- (i) To stop the advertisement being published or shown, or
- (b) To take such steps as they may specify to change the advertisement to comply with sub rules (2) or (3) as the case may be.

Rule 8(5) of the Rules 2009 provides that a direction under sub-rule (4) shall be in writing and state the grounds on which it is given and the time within which it must be complied with.

Rule 8(6) of the Rules 2009 provides that if any requirement of sub-rule (2) or (3) is contravened, or if a direction under sub-rule (4) is not complied with, each of the following:

- (i) The Licensee and
- (b) The person who is the designated official in relation to the licensee is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand rupees.

Rule 9(1) of the Rules 2009 provides that a licensee or the operator acting on his behalf shall, before any online gaming is conducted by means of any OGS, produce to the Government a certificate in writing issued by a person approved for the purpose by the Government that the OGS by means of which it is conducted complies with the standards specified in the Schedule.

Rule 9(2) of the Rules 2009 provides that the obligation under sub-rule (1) arises:

- (a) Prior to the licensee or the operator permitting the OGS to be accessed by any player for the placing of wagers; and
- (b) On or before the expiry of the periods specified in the license.

Rule 9(3) of the Rules 2009 provides that sub-rule (1) will not apply in so far as the licensee or the operator intending to use the OGS produces to the Government a certificate in writing issued by a person approved for the purpose by the Government (prior to the OGS being accessed by players directly or indirectly for the purpose of placing wagers) that the OGS is not different in any material, technical or operational respect to an OGS already certified as being fully compliant with the Schedule for and on behalf of another operator under sub-rule (1).

Rule 10(1) of the Rules 2009 provides that the OGS by means of which any online gaming is conducted may not without the prior approval of the Government or the officer authorized by the Government in this behalf be altered in any way which is likely to affect its compliance with the requirements of the Schedule, subject to sub-rule (2) of rule 8. Rule 10(2) of the Rules 2009 provides that sub-rule (1) will not apply to each new game launched by the Licensee provided that nothing in this rule will obviate the requirements that the OGS continues to comply fully with the Schedule.

Rule 11 of the Rules 2009 provides that if any requirement of Rules 8 or 9 is contravened, the licensee or the operator, as the case may be, shall on conviction, be punishable with a fine which may extend to five thousand rupees.

Rule 12(1) of the Rules 2009 provides that every licensee shall maintain the accounts of the all online games showing the details of the Gross Gaming yield and the levy payable to the Government in a register as may be specified for the purpose by the Government. Rule 12(2) of the Rules 2009 provides that every licensee shall submit to Government a statement of gross Gaming yield and levy payable to Government every month in Form 3 as prescribed under sub-rule (2) of rule 5.

Rule 13(1) of the Rules 2009 provides that no licensee or his operator shall allow or admit or register person below the age of eighteen years to play on-line games specified in these rules. Rule 13(2) of the Rules 2009 provides that if any licensee is found contravening the provision of sub-rule (1) he shall be punished with a fine not exceeding one thousand rupees.

Rule 14 of the Rules 2009 provides that if the holder of a license or any person acting on his behalf commits a breach of any of the conditions of the license under section 12 of the Act, he shall, on conviction, be punished with a fine which may extend to ten thousand rupees.

Rule 15 of the Rules 2009 provides that if any person liable under section 13 to keep accounts or to submit statement of accounts fails to keep accounts or to submit statement of accounts as required by that section or keeps accounts or submits statement of account which are false and which he either knows or believes to be false or does not believe to be true, he shall, on conviction, be punished with a fine which may extend to ten thousand rupees.

Rule 16 of the Rules 2009 provides that if any person other than the licensee while playing online game at the approved website licensed under the Act commits a breach of any of the conditions of the license as exhibited, or of the rules to be observed in playing such games, he shall, on conviction, be punished with a fine which may extend to five thousand rupees.

Rule 17 of the Rules 2009 provides that if any question arises as to the interpretation of any of these rules, the matter shall be referred to the Government and the decision of the Government thereon shall be final.

The Schedule to the rules 2009 prescribes the requirements with which OGS must comply with. These requirements are as follows:

**(1) General:** (A). The OGS must -

- (i) Follow the game rules published to the player or prior to its placing any wagers,
- (ii) Provide over specified periods no more than the house advantage agreed by the Commissioners with the operator, and
- (iii) Integrate contingencies for loss of continuity of play, and
- (iv) if utilized in any peer to peer game, ensure that over the specified periods that no one player has any advantage over any other player playing the same game.

(B). Both the gaming and financial transactions software must be congruent and secure.

**(2) Randomness:** (A) (1) The OGS must satisfy the following criteria for randomness for any gaming, namely:

(a) The data must be randomly generated, passing appropriate statistical non static output results tests of randomness (e.g., Marsaglia's` "Diehard" set of tests) uniformly distributed over the set range,

(b) The data must be unpredictable, i.e. it must not be computationally feasible to predict what the next number will be, given complete knowledge of the algorithm or hardware generating the sequence, and all previously generated numbers, and

(c) The series cannot reliably be reproduced, i.e. if the sequence generator is activated again with the same input (as exactly as humanly possible) it will produce two completely unrelated random sequences.

(A) (2) The licensee must disclose the methodology of any random seeding and any seeding must be proven to result in an unpredictable output.

(B). The outcome of any game, and the return of the player, must be independent of the CPU, memory, disk or other components used in the computer or other device used by the player.

(C). The game outcome must not be affected by the effective bandwidth, link utilization, bit error rate or other characteristic of the communications channel between the OGS and the computer or other device used by the player.

(D). The OGS must be able to display for each game the following information (i.e. on the current page or on a page directly accessible from the current page via a hyperlink):

- (a) The name and rules of the game,
- (b) Restrictions on play,
- (c) Instructions on how to play, including a pay-table for all prizes and special features,
- (d) The player's` current account balance and currency or currencies utilized to place wagers,
- (e) Unit and total wagers permitted,
- (f) The return to the player, or sufficient information to enable a player to determine readily and easily the expected return to him in relation to any game, disregarding any exercise of skill by him, and
- (g) For the specified periods in which the tests take place, the percentage of total wagers returned to players in relation to all house games offered by the operator.

**(3) Reporting Requirements:** (A). All financial reports produced by the OGS must be readily reconcilable with gaming transaction reports, and all such reports shall be freely available to the Government.

(B). The OGS must:

- (i) Be capable of producing monthly auditable and aggregated financial statements of gaming transactions, and
- (ii) Calculate accurately the levy and other dues to the Government.

(C). The OGS must maintain information about all game played, including:

- (i) The identify of the player,
- (ii) The time the game began,
- (iii) The balance on the player's` account at the start of the game,

- (iv) The wagers placed in the game (timestamped),
  - (v) The game status (in progress, complete, etc.),
  - (vi) The result of the game (timestamped),
  - (vii) The time the game ended,
  - (viii) Amount won or lost by the player,
  - (ix) The balance on the player's` account at the end of the game, and
  - (x) The currency or currencies utilized by the player.
- (D). The OGS must maintain information about significant events as follows:
- (i) Large wins (as agreed by the Government from time to time),
  - (ii) Transfers of funds (between players or between any player and the licensee) in excess of such amount as the Government may from time to time direct by notice in writing to the licensee.
  - (iii) Material changes made by the licensee to game returns, disclosed under paragraph 6(f) above, and
  - (iv) Material fluctuations in theoretical/estimated statistical return to players (being a percentage of lost players` ' wagers agreed with the Government from time to time).