

International Comparative Legal Guides



Practical cross-border insights into gambling law

Gambling 2023

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Alexander Mollan

1.1 Which entities regulate what type of gambling and social/skill gaming activity in your jurisdiction?

Relevant Product		Who regulates it in digital form?	Who regulates it in land-based form?
Gaming	Casino gaming (including slots and casino table games such as roulette & blackjack)	The Norwegian Gaming and Foundation Authority (<i>Lotteri- og Stiftelsestilsynet</i>).	
	Poker		
	Bingo		
Betting	Betting	The Norwegian Gaming and Foundation Authority (<i>Lotteri- og Stiftelsestilsynet</i>).	
	Sports/horse race betting (if regulated separately to other forms of betting)		
	Fantasy betting (payment to back a 'league' or 'portfolio' selection over a period of time, for example in relation to sport or shares)		
Lotteries	Lotteries	The Norwegian Gaming and Foundation Authority (<i>Lotteri- og Stiftelsestilsynet</i>).	
Social/Skill arrangements	"Social" gaming with no prize in money or money's worth	N/A.	
	Skill games and competitions with no element of chance		

1.2 Specify: (i) the law and regulation that applies to the Relevant Products in your jurisdiction; and (ii) – in broad terms – whether it permits or prohibits the offer of Relevant Products to persons located in your jurisdiction.

Gambling activities in Norway are regulated by the following acts:

- The Totalisator Act of 1 January 1927 no. 3.
The Totalisator Act regulates horse racing and related betting activities and prescribes that said activities require authorisation.
- The Gaming Scheme Act of 28 August 1992 no. 103.
The Gaming Scheme Act grants Norsk Tipping the exclusive right to operate gaming schemes related to sporting events and other competitions that are not governed by other acts.
- The Lottery Act of 24 February 1995 no. 11.
The Lottery Act prescribes that the provision of a lottery without an authorisation is prohibited. As a general rule, authorisation is only granted to organisations with a humanitarian and socially beneficial purpose, where proceeds are distributed for said purpose.
Section 1, first paragraph, letter a) of the Act defines "Lottery" as any gaming activity such as casino games, betting, lotteries, slots, skill games and any other gambling activity, either online or offline, that requires a payment and may provide winnings as a result of a draw, guess, chance or any other procedure that is partly or wholly determined by a random event. Any activity fitting this description and falling outside the scope of the Totalisator Act or the Gaming Scheme Act is consequently regulated by the Lottery Act.

The legislation mentioned above generally prohibits the provision, marketing or distribution of any form of gambling activity without an authorisation from the Norwegian Gaming and Foundation Authority. It is important to note that the prohibition only applies to the provision of gambling activities within Norway, or where the Authority finds that a foreign-based operator has targeted Norwegian customers. For more information regarding marketing and provision of payment services on behalf of gambling operators and liability issues, see questions 2.6, 2.9, 4.1 and 5.1.

The Norwegian Tax Act of 26 March 1999 no. 14 contains a special provision concerning income generated from incidental winnings in gambling activities in Section 5-50; see question 2.7 below.

The Money Laundering Act of 1 June 2018 no. 23 encompasses gambling activities that require authorisation under the Totalisator Act, the Gaming Scheme Act and the Lottery Act. For more information, see question 2.9 below.

Furthermore, there are several regulations that govern specific areas of gambling, the most important being:

- Regulation on the Norwegian Gaming and Foundation Authority and the Lottery Registry of 21 December 2000 no. 1366.
- Regulation on Setup Permits for Entertainment Machines of 11 September 2000 no. 960.
- Regulation on Entertainment Machines of 15 September 1995 no. 793.
- Regulation to the Act on Lotteries of 24 February 1995 no. 185.
- Regulation on Totalisator Activities of 24 August 2007 no. 1011.
- Regulation on Bingo of 30 November 2004 no. 1528.
- Regulation on the Prohibition against Payment Provision for Gambling without Norwegian Authorisation of 19 February 2010 no. 184.

As with most purchases of services by Norwegian consumers, players' use of gambling-related services is governed by non-statutory law.

2.1 What regulatory licences, permits, authorisations or other official approvals (collectively, "Licences") are required for the lawful offer of the Relevant Products to persons located in your jurisdiction?

Any organisation may apply for an authorisation to provide gambling activities, though authorisations to operate commercial gambling activities are generally not provided, as Norsk Tipping and Norsk Rikstoto are the sole providers of gambling services in Norway by virtue of the Norwegian gambling monopoly. As such, gambling activities are prohibited without an authorisation from the Gaming and Foundation Authority, *cf.* the Norwegian Lottery Act Section 6 and the Norwegian Gaming Scheme Act Section 2.

There is a limited right for private organisations to apply for authorisation to provide private lotteries, poker and bingo under the applicable legislation, though national or foreign organisations are not eligible to request a full gaming authorisation from the Authority.

An authorisation to hold a lottery may be granted to local, regional or nationwide organisations who have a humanitarian or socially beneficial purpose within the area in which the lottery is held.

Commercial gambling organisations may act as intermediaries for the organisers with the aforementioned humanitarian or socially beneficial purpose.

2.2 Where Licences are available, please outline the structure of the relevant licensing regime.

In accordance with the Norwegian Lottery Act Sections 7 and 5, second paragraph, and the Regulation on the Norwegian Gaming and Foundation Authority and the Lottery Registry Chapter 5, the following gambling activities are exempt from the requirement of authorisation:

- Pre-drawn or post-drawn lotteries:
 - With an annual turnover not exceeding NOK 200,000.
 - Where the organisation behind the lottery has a humanitarian or socially beneficial purpose.
 - Where the organisation has given 14 days' prior notice to the Authority before the sale of lottery tickets, *cf.* the

Regulation on the Norwegian Gaming and Foundation Authority and the Lottery Registry Section 5-1, first paragraph.

- Where the organisation does not utilise a commercial third party to organise the lottery.

The following gambling activities are exempt from both the requirement of authorisation, as well as the requirement of having a humanitarian or socially beneficial purpose:

- Lotteries:
 - Provided that they are not accessible by the general public.
- Private poker games:
 - That are held in a private home.
 - That do not have an organised or professional character.
 - With less than 10 participants belonging to the same social circle.
 - Where the participants are all over 18 years of age.
 - Where the entry fee does not exceed NOK 1,000 per person.
- Bazaars:
 - Where the proceeds go to a specific purpose.
 - Where the activity is concluded in one day.
 - That do not sell lottery tickets beforehand.
 - That do not involve a prize exceeding NOK 1,000.
 - Where the price of each lottery ticket does not exceed NOK 5.
 - Where the maximum value of a single prize does not exceed NOK 8,000.
 - Where the maximum value of all prizes does not exceed NOK 40,000.
 - Where all prizes are drawn at the same time and with the participants in attendance.
 - Where the organiser has not engaged the help of an intermediary against payment.

Consequently, any organisation wishing to hold a lottery with an annual turnover exceeding NOK 200,000 or for other purposes, or otherwise provide any other gambling activity, must acquire a prior authorisation from the Gaming and Foundation Authority, *cf.* the aforementioned Regulation Section 2-1 and the Norwegian Lottery Act Section 6. Said organisations must be registered with the Norwegian Central Coordinating Register for Legal Entities (NCCRLE) and have a humanitarian or socially beneficial purpose.

If a lottery activity is to be held in a fixed location, the proprietor of the location must also hold an authorisation. An authorisation is required if the implementation of lotteries is entrusted to an operator in return for payment. In regard to the limited number of authorisations, see question 2.3.

2.3 What is the process of applying for a Licence for a Relevant Product?

In order to apply for a gambling authorisation, an application is filed using the applicable form provided by the Gaming and Foundation Authority. Certain authorisations are only granted by public application, hereunder:

- Lottery activities where a private organisation is responsible for the drawing of winnings and where said organisation has a humanitarian or socially beneficial purpose, *cf.* the Regulation on the Lottery Act Section 7. The aforementioned Regulation prescribes that only five such authorisations may be valid at the same time. Currently, no new authorisations are expected to be granted until 2025.
- Land-based tournament poker, *cf.* the Regulation on the Lottery Act Section 8.

Authorisations are only granted to local, regional or nationwide organisations or foundations.

Application fees range between NOK 1,250 and NOK 20,300, with additional yearly licensing fees applicable if the application is approved.

Depending on the type of gambling activity in question, the applicants may be required to submit, *inter alia*:

- A police certificate of good conduct of the organisation's chairman of the board, the proprietor or other participants.
- Financial statements, annual report and auditor's report.
- Articles of association.

After submitting an application, the Gaming and Foundation Authority will issue a non-binding preliminary evaluation of the matter.

A final decision may take anywhere between six and 12 months.

2.4 Are any restrictions placed upon licensees in your jurisdiction?

See questions 2.1 and 2.8.

2.5 Please give a summary of the following features of any Licences: (i) duration; (ii) vulnerability to review, suspension or revocation.

The type of gambling activity in question determines the duration and possible expiry of an authorisation.

For lottery activities, as described in the Regulation on the Lottery Act Section 7 and in question 2.3 above, an authorisation is valid for a period of nine years.

Authorisations for land-based poker tournaments are valid for a period of three years, *cf.* the Regulation on the Lottery Act Section 8 and question 2.3 above.

Authorisations for pre-drawn or post-drawn lotteries or bingo are valid for a period of one year, *cf.* the Regulation on Bingo Section 2 and question 2.2 above.

An authorisation may be revoked where the holder has breached the Norwegian Lottery Act, other legislation or terms provided in accordance with the Lottery Act. The authorisation may also be revoked where a gambling device used in the gambling activity does not perform satisfactorily, or where the holder has breached public order or otherwise facilitated the creation of an environment harmful to children and adolescents.

2.6 By Relevant Product, what are the key limits on providing services to customers? Please include in this answer any material promotion and advertising restrictions.

The terms and restrictions of an authorisation differ depending on the type of authorisation. The Regulation on Bingo and the Regulation on the Lottery Act Sections 5, 6, 7a and 8 provide a number of restrictions, *inter alia*:

- Lotteries:
 - The value of the main prize cannot exceed NOK 2,000,000.
 - The total value of the prizes must amount to a minimum of 25% of the lottery's allowed turnover.
 - The organisation may not use more than 15% of the lottery's turnover on marketing.
- Poker tournaments:
 - The value of the main prize cannot exceed NOK 2,000,000.
 - The maximum allowable number of participants is 5,000.
 - Participants must be over 18 years of age.
 - The authorised organisation must receive a minimum of 5% of the turnover. The operator may recuperate

costs incurred in arranging the tournament, with a limitation of 10% of the turnover.

- Bingo:
 - The maximum allowable turnover per year is NOK 700,000.
 - The authorised organisation must receive a minimum of 15% of the profits (30% from electronic bingo and pre-drawn bingo games).
- Post-drawn and pre-drawn public lotteries:
 - The maximum allowable turnover cannot exceed NOK 100,000,000 per year.
 - The authorised organisation must receive a minimum of 20% of the turnover.
- Lotteries drawn by a commercial organisation:
 - The maximum allowable turnover cannot exceed NOK 300,000,000 per year.
 - The authorised organisation must receive a minimum of 50% of the turnover.

All foreign and non-authorised organisations are prohibited from marketing online gambling activities in Norway, *cf.* the Norwegian Lottery Act Section 11 and the Gaming Scheme Act Section 2.

2.7 What are the tax and other compulsory levies?

Winnings considered incidental prizes exceeding NOK 10,000 are taxable at a rate of 28%, *cf.* the Norwegian Taxation Act Section 5-50 (1). This includes winnings from foreign gambling organisations. Some exceptions apply, as follows:

- Prizes won from lotteries held for the benefit of a humanitarian or socially beneficial aim, such as those provided by Norsk Tipping and Norsk Rikstoto, *cf.* the Taxation Act Section 5-50 (2). This exception may also apply to gambling and lotteries in other EEA countries which are comparable to the gambling activities or lotteries that are legally available in Norway and subject to public oversight and control in the applicable country.
- If you are gambling professionally, the winnings may be regarded as income through self-employment. As a result, you will be taxed as a tradesman, and be able to enter costs related to your gambling as deductible. This exception only applies in cases of extensive gambling activity where said activity is considered suitable to make profits.

2.8 What are the broad social responsibility requirements?

In order to arrange bingo, lotteries or other gambling activities, an organisation must generally apply for authorisation from the Gaming and Foundation Authority, *cf.* the Norwegian Lottery Act Section 6, first paragraph, and the Gaming Scheme Act Section 2.

Authorisation is usually only granted where the organisation has a humanitarian or socially beneficial purpose, *cf.* the Norwegian Lottery Act Section 6, second paragraph, and Section 5, first paragraph. In an assessment of whether said organisation should be granted authorisation, the Authority takes into account the degree of a socially justifiable distribution of the income from the bingo or lottery endeavour. Furthermore, the Authority may stipulate additional conditions for the authorisation related to combatting gaming addiction.

As mentioned in question 2.5, an authorisation may be revoked where the holder has breached public order or otherwise facilitated an environment harmful to children and adolescents.

The age limit for gambling in any form is 18 years, *cf.* the Lottery Act Section 8a.

2.9 How do any AML, financial services regulations or payment restrictions restrict or impact on entities supplying gambling? Does your jurisdiction permit virtual currencies to be used for gambling and are they separately regulated?

The Norwegian Money Laundering Act encompasses gambling activities that require authorisation under the Totalisator Act, the Gaming Scheme Act or the Lottery Act.

Gambling operators have a duty to inspect and report any irregular activity, prepare risk evaluations and establish compliance programmes. Owners and leadership of a gambling operator is subject to suitability requirements aimed at deterring money laundering.

Financial institutions have to conduct customer checks of single transactions by customers of gambling operators who do not have an established customer relationship with the financial institution. Such customer checks are mandatory for all electronic transactions surpassing NOK 8,000. Likewise, gambling operators are subject to the duty of customer checks for all transactions exceeding NOK 16,000.

As previously mentioned, the Norwegian Lottery Act Section 11 prohibits the facilitation of lottery activities without authorisation, cf. question 2.8 above. This prohibition includes the provision of services enabling the payment of any winnings and buy-ins, entry fees, stakes, etc. between a gambling organisation and its customers. This prohibition applies to all third-party payment providers who offer their services to Norwegians, regardless of whether the payment provider is based within Norway or abroad.

Norway implemented payment blocking between gambling organisations and customers in 2010 through the Regulation on the Prohibition against Payment Provision for Gambling without Norwegian Authorisation of 19 February 2010 no. 184. The aim of this Regulation is to complicate the payment process of these unauthorised organisations in order to secure regulated and controlled gambling activities.

The aforementioned Regulation grants the Authority the power to actively enforce the prohibition by passing resolutions or individual decisions on financial institutions within Norway, ordering them to refuse electronic payment transactions and from uniquely specified account numbers or companies.

Furthermore, Norwegian financial institutions are required to block all transactions bearing the Merchant Category Code 7895, which is used to identify gambling operators.

In order to circumvent the aforementioned prohibition and the measure of payment blocking, foreign gambling operators have long used third-party payment service providers.

In regard to virtual currencies, Norwegian law does not regulate the question of whether virtual currencies may be used for gambling activities.

2.10 What (if any) restrictions were placed during the COVID-19 pandemic? Are they still in force?

No specific restrictions were placed on the gambling sector during the COVID-19 pandemic.

3.1 How does local law/regulation affect the provision of the Relevant Products in online/mobile/digital/electronic form, both from: (i) operators located inside your jurisdiction; and (ii) operators located outside your jurisdiction?

Norwegian law does not differentiate between online gambling activities and their land-based counterparts.

The Norwegian gambling monopoly provides Norsk Tipping and Norsk Rikstoto with the exclusive right to offer online gambling activities within Norway, effectively prohibiting foreign gambling organisations from offering the same services. Norsk Tipping offers various online gambling activities, such as blackjack, roulette and other games.

As such, the provision of online gambling activities is prohibited where the organiser does not have an authorisation in accordance with the Norwegian Lottery Act Section 6, first paragraph, or the Gaming Scheme Act Section 2. As previously mentioned, said authorisations are generally only attainable where the organisation has a humanitarian or socially beneficial purpose.

In spite of the strict gambling laws, it is neither illegal for Norwegians to gamble on foreign gambling websites, nor is it illegal for a foreign gambling operator to tacitly offer its services to Norwegians where it holds a licence in another EU/EEA Member State. However, the Authority has pierced the veil in certain cases; see question 4.1.

The Gaming and Foundation Authority does not supervise foreign gambling operators, regardless of their legality. This means that private individuals are able to gamble at their own risk using said websites, as there are no guarantees that prizes will actually be paid out.

3.2 What other restrictions have an impact on Relevant Products supplied via online/mobile/digital/electronic means?

See question 2.9.

3.3 What terminal/machine-based gaming is permitted and where?

With the exception of certain terminal/machine-based machines in bingo halls and Norsk Tipping's own *Multix-automats*, terminal/machine-based gaming is prohibited in Norway.

4.1 Who is liable under local law/regulation?

The provider or organiser of a gambling activity can be held liable for any breach of the relevant gambling legislation. Organisations who license machines/terminals or software to gambling operators or otherwise facilitate the gambling activity through marketing or payment processing are likewise subject to liability if they violate the relevant gambling legislation, cf. the Norwegian Lottery Act Sections 6 and 11 and the Gaming Scheme Act Section 2.

Customers are not subject to liability. Likewise, foreign-based gambling operators are not liable under Norwegian gambling law if they do not specifically target Norwegian customers. The Gaming and Foundation Authority may pierce the veil and hold a foreign-based gambling operator liable if they find that such operator is targeting Norwegians. According to the preparatory works of the proposed Gambling Scheme Act, the following elements are included in an assessment of whether a gambling operator is targeting Norwegians: 1) allocation of any surplus of the gambling operator to Norwegian organisations; 2) connections to Norway (e.g. a Norwegian address); 3) efforts to circumvent payment blocking; 4) marketing of gambling services in Norwegian or in/on Norwegian media or platforms; 5) marketing using Norwegians (e.g. celebrities or athletes); 6) provision of gambling services and customer support in the

Norwegian language; 7) referrals to Norwegian gambling addiction support services such as Gamblers Anonymous Norway, Blue Cross Norway or the Helpline; 8) spokespersons located in Norway; and 9) the ability for customers to pay consideration in Norwegian kroner (NOK).

This list is not exhaustive, and these elements are but some of the factors used by the Gaming and Foundation Authority in comprehensive assessments of whether a foreign-based gambling operator is seeking to circumvent the Norwegian prohibition or if it merely provides its gambling services to Norwegians in a tacit and indiscriminate manner.

4.2 What form does enforcement action take in your jurisdiction?

The Gaming and Foundation Authority has the power to issue administrative orders to the organisation responsible for the provision of the illegal gambling service or the facilitation of marketing, payment processing or other appurtenant services.

Such administrative orders usually require that the organisation cease and desist its purported unlawful operations or rectify the situation. The Authority may also issue a coercive fine in order to ensure that the order issued is implemented within a specified time limit.

While the Authority vigorously pursues violations, the scarcity of such violations results in little enforcement.

Violations of the relevant gambling legislation can also be punished by regular fines, or by imprisonment for up to three years. Compulsory or regular fines are by far the most common sanction.

4.3 Do other non-national laws impact upon liability and enforcement?

No, they do not.

4.4 Are gambling debts enforceable in your jurisdiction?

As a general rule, gambling debts are unenforceable under Norwegian law, *cf.* the Enforcement Act for the General

Civil Penal Code Section 12. The aforementioned provision prescribes two situations in which gambling debt is considered unenforceable.

Firstly, if the gambling debt has been acquired through the participation in an illegal game or similar activity, the debtor is not liable for the payment of the debt. The unenforceability of the aforementioned debt applies regardless of the debtor's or opposing gambler's knowledge of the illegality of the game, *cf.* the Norwegian Supreme Court's judgment in *Rt. 2003 s. 1210*.

Secondly, where the debtor has acquired a debt through a loan, the debtor is not liable for the payment of the debt unless the creditor had no knowledge that the loan was going to be used in gambling.

4.5 What appetite for and track record of enforcement does your local regulatory authority have? Have fines, licence revocations or other sanctions been enforced in your jurisdiction?

While the Gaming and Foundation Authority vigorously pursues violations, it prefers action through dialogue. The Authority is primarily occupied with ongoing matters and has a practice of engaging gambling operators and payment service providers in constructive dialogue and through cease-and-desist letters, as opposed to filing matters with the Norwegian Police or issuing coercive or administrative fines.

5.1 What (if any) intended changes to the gambling law/regulations are being discussed currently?

A new Gaming Scheme Act will enter into force on 1 January 2023. The new act is set to unify the three existing acts (the Lottery Act, Gaming Scheme Act and Totalisator Act). When enacted, it will expand the regulatory toolbox of the Norwegian Gaming and Foundation Authority, for instance, by allowing them to order DNS blocking of websites and issue administrative fines.



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He is the key account manager for Norsk Tipping and has assisted Norwegian players and investors in the international gambling and entertainment market since 2008. Mr. Haglund has assisted in the establishment of professional gaming entities abroad and other M&A-related activity.

Mr. Haglund covers national and international tax law and corporate law. He regularly advises on end-of-year tax reporting for several Norwegian professional poker players, including inbound and exit tax issues. He is also the author of *Taxation of Poker*, a yearly guide published by the Norwegian Poker Association. Mr. Haglund is ranked by *Who's Who Legal* in the category of Sports and Gaming, as one of only two Norwegian lawyers in this category.

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He focuses primarily on advising foreign-based gambling operators, payment service providers and marketing affiliates on the intricacies of Norwegian gambling law, as well as matters pertaining to broadcasting, ICT, privacy and other compliance-related matters.

Mr. Mollan is ranked as a "Rising Star" within the field of Technology, Media and Telecommunications by the renowned ranking firm *The Legal 500*. He is also ranked by *Who's Who Legal* in the category of Sports and Gaming, as one of only two Norwegian lawyers in this category.

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Brækhus is the only law firm in Norway with a dedicated group of experts within the field of gambling. Our lawyers Brede Haglund and Alexander Mollan are ranked by *Who's Who Legal* in the category of Sports and Gaming, the only Norwegian lawyers in this category. Brækhus assists operators, payment service providers, marketing agencies and other vendors with navigating the regulatory waters of the Norwegian gambling monopoly, establishing international service offerings and handling tax issues, financial requirements, marketing law, optimisation of ownership and the development and licensing of intellectual property rights.

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