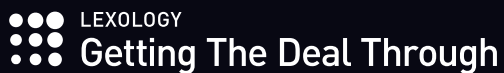


Norway



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Quick reference guide enabling side-by-side comparison of local insights into land-based and remote gambling and quasi-gambling activities, including legal definition; age restrictions; penalties; social and non-profit gambling; regulatory authorities; anti-money-laundering regulations; establishment, director, officer and owner licensing; casino development; passive/institutional ownership; responsible gambling; taxes; cross-border and internet gambling; patents; trademarks; advertising; supplier licensing and registration; wage and hour and collective labour issues; change of control and bankruptcy considerations; recent litigation; and recent trends.

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GENERAL LEGAL FRAMEWORK

Legal definition of 'gambling'

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

The Gambling Scheme Act utilises the umbrella term 'gambling scheme' to cover gambling activities (eg, casino games, betting, lotteries, slots and skill games), either online or offline, that require a stake and may provide prizes as a result of a draw, guess, chance or any other procedure that is partly or wholly determined by a random event.

An activity will be classified as a 'lottery' if it requires a stake, offers a prize and relies on total or partial chance.

Norwegian law interprets the term 'stake' broadly in that the provision of private emails, the use of a telephone with payment beyond the normal rate or a paid membership being required for participation will be treated as a stake. Free games are not considered to be gambling under Norwegian law.

The term 'prizes' encompass money, objects or other tangible assets with economic value. In principle, anything of value can be considered a prize within the meaning of the Gambling Scheme Act. It follows from practice that items of negligible value (eg, simple promotional items and symbols of participation, such as mugs, cups, diplomas, posters and t-shirts) fall outside the concept of prizes.

If the outcome of the activity is beyond the control of the individual, the activity relies on a total or partial chance. This condition is always met where the winner is selected by draw or guess, such as in traditional lotteries.

If the activity comprises several parts, only one part needs to contain an element of randomness for the condition of total or partial chance to be fulfilled. This includes activities where the chance of winning depends on both skill and randomness. It does not matter if the random element is present before or after the part of the activity where participants compete in knowledge or skill. Pure skill gaming does not have the element of chance; therefore, it is not treated as gambling under Norwegian law.

Law stated - 29 April 2023

Remote activity

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

Under Norwegian gambling law, the location of the operator is the main factor. As such, it is not illegal for foreign-based gambling operators to tacitly provide their services to Norwegian customers. However, Norwegian authorities may pierce the veil where a Norwegian-based gambling operator with a predominantly Norwegian customer base relocates its operations abroad to circumvent Norwegian law.

Similarly, foreign-based operators that have no connection to Norway may be held liable where they align and facilitate their business in such a way as to provide services to customers in Norway. Such alignment may be to:

- provide gaming services and customer support in the Norwegian language;
- have Norway-based spokespersons;
- market services in Norwegian media or on Norwegian-based websites;
- directly facilitate payments to and from customers in Norway; or
- allocate any surplus of the gambling operator to Norwegian organisations.

Under Norwegian tax law, the wager is deemed to have taken place at the location of the tax subject in question.

Law stated - 29 April 2023

Age restrictions

What is the minimum age for participating in lawful gambling?

The minimum age for participating in lawful gambling is 18.

Law stated - 29 April 2023

Penalties

What are the penalties for offering unlawful gambling?

Anyone who intentionally or negligently violates the provisions of the Gambling Scheme Act may be subject to a fine or imprisonment of up to one year.

Serious offences are punishable by a fine or imprisonment of up to three years. In deciding whether the violation is serious, emphasis is placed on whether the act concerns a substantial amount, targets children or must be regarded as particularly harmful for other reasons.

The provision of pyramid schemes or gambling that can be easily misused or difficult to control is always considered to be serious.

Law stated - 29 April 2023

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

No.

Law stated - 29 April 2023

Social and non-profit gambling

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

Private poker games are permitted, provided that:

- the game is held in a private home;
- there are fewer than 20 participants belonging to the same social circle;
- the participants are all over the age of 18;
- the entry fee does not exceed 1,000 Norwegian kroner per person; and
- the game is not of an organised or professional character.

Organisations with a non-profit purpose may apply for a purpose to operate bingo games. The annual turnover of those games cannot exceed 700,000 Norwegian kroner, and the licence holder must receive at least 15 per cent of the profits.

There are also exemptions for lotteries with a non-profit purpose where the proceeds are allocated to that cause. Pre-drawn or post-drawn lotteries are exempt from the authorisation requirement if the organisation conducting the lottery has an annual turnover of less than 200,000 Norwegian kroner.

An authorisation is required for any organisation with a turnover of 200,000 to 100 million Norwegian kroner that

wishes to offer lotteries. The main prize of the lotteries cannot exceed 2 million Norwegian kroner, while the value of all prizes must amount to at least 25 per cent of the lottery's approved turnover.

Lotteries cannot be offered on a digital platform, and the organisation offering the lottery cannot utilise a commercial third party to organise the lottery.

Non-profit gambling is permitted under Norwegian law, although the Norwegian authorities have taken a broad view regarding the content of prizes.

Law stated - 29 April 2023

Regulatory authorities

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

The Gaming and Foundation Authority regulates and enforces gambling and gaming activities.

The Authority is responsible for supervising Norsk Tipping and Norsk Rikstoto, as well as supervising and controlling the gambling market, including with regard to illegal marketing, illegal gambling, pyramid schemes and match-fixing. It also provides and recalls lottery authorisations and accounting control and approves contractors in the bingo sector. Further, the Authority is responsible for distributing value added tax (VAT) compensation to voluntary teams and organisations, including general schemes and VAT in the construction of sports facilities.

To supervise the gambling market, the Gaming and Foundation Authority has the power to conduct inspections and demand access to the books and accounts of gambling operators. It may issue rectification or cease-and-desist orders to operators that, in its view, conduct illegal gambling activities. It may also issue coercive fines for non-compliance.

The Authority also has the power to enact resolutions or individual decisions on financial institutions in Norway, ordering them to refuse electronic payment transactions to and from uniquely specified account numbers or specified entity names. These types of resolution apply to Norwegian financial institutions only.

Law stated - 29 April 2023

Anti-money-laundering regulations

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?

No, although they are subject to many of the same requirements under the Anti-Money Laundering Act (eg, know-your-customer measures, risk assessments and reporting obligations).

Law stated - 29 April 2023

LAND-BASED GAMBLING

Types

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

Gambling is regulated at a national level. As a general rule, the provision, marketing or distribution of any form of gambling activity that has not been authorised by the Gaming and Foundation Authority under sections 4 and 6 of the

Gambling Scheme Act is prohibited. Authorisations are generally granted only where the prospective authorised party has a humanitarian or socially beneficial purpose and the proceeds of the gambling activity are allocated to that purpose.

In theory, any organisation may apply for authorisation; however, the authorisation to operate commercial gambling activities is rarely granted. State-owned companies Norsk Tipping (gaming) and Norsk Rikstoto (totalisator betting) hold the exclusive rights to provide gambling services in Norway as result of the Norwegian gambling monopoly.

Norwegian law prohibits land-based casinos, although licensed bingo halls are permitted provided that certain conditions are met. Norsk Tipping and Norsk Rikstoto also provide Multix gaming terminals and horse-racing betting halls, respectively.

Law stated - 29 April 2023

Establishment licensing

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

Norwegian-based organisations may apply for an authorisation to provide gambling activities. However, commercial authorisation is not generally provided as the state-owned Norsk Tipping and Norsk Rikstoto hold the exclusive rights to provide commercial gambling services in Norway under the Norwegian gambling monopoly.

Private organisations may apply for an authorisation to provide private lotteries, poker and bingo activities under certain conditions.

Authorisations for gambling may be granted to local, regional or nationwide organisations that have a non-profit purpose and of which the proceeds of the gambling activity are allocated to the non-profit purpose. The Gaming and Foundation Authority may grant organisations with a turnover of between 200,000 and 100 million Norwegian kroner authorisations to offer lotteries. The main prize of the lottery cannot exceed 2 million Norwegian kroner, and the value of all prizes must amount to at least 25 per cent of the approved turnover of the lottery. In certain cases, the Authority may approve a yearly extension of the turnover threshold, up to 360 million Norwegian kroner. The extension is contingent on the licence holder having an international activity that accounts for at least 50 per cent of its total operating costs and having at least 20 million Norwegian kroner annually in accounting operating costs for that activity.

The Gaming and Foundation Authority may also grant three-year authorisations to operate an annual, land-based and for-profit national poker championship, with up to five regional qualification tournaments.

Obtaining an authorisation for a poker tournament is conditional on the value of the main prize not exceeding 2 million Norwegian kroner. The maximum number of participants is 5,000, and they must be over 18 years of age. The licence holder must receive a minimum of 5 per cent of the tournament's turnover. The licence holder may recuperate costs incurred in arranging the tournament, with a limit of 20 per cent of the turnover.

The Gaming and Foundation Authority may grant an organisation a licence to operate a bingo hall, provided that:

- the organisation's annual turnover does not exceed 700,000 Norwegian kroner; and
- the organisation receives at least 25 per cent of the profits (of which 30 per cent is from electronic bingo and pre-drawn bingo games).

Bingo authorisations are valid for one year.

Authorisations for post-drawn and pre-drawn public lotteries can be granted by way of public application, provided that:

- the annual turnover does not exceed 1 billion Norwegian kroner; and
- the authorised organisation receives at least 20 per cent of the turnover.

Lotteries drawn by a commercial organisation may acquire an authorisation if:

- the organisation's annual turnover does not exceed 3 billion Norwegian kroner; and
- the organisation receives at least 50 per cent of the turnover.

Lottery authorisations are valid for one year.

If a lottery activity is to be held in a fixed location, the proprietor must have an authorisation. Likewise, an operator must have an authorisation if the lottery is entrusted to it in return for payment.

None of the lotteries mentioned above can be offered on a digital platform.

Law stated - 29 April 2023

Director, officer and owner licensing

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

There are no licences for individuals, although they may be subject to requirements under the various authorisation regimes. For example, applicants for authorisations may be required to submit:

- a police certificate of good conduct of the organisation's chair of the board, the proprietor or other participants;
- financial statements, annual reports and an auditor's report; and
- articles of association.

Authorisations may be revoked if the licence holder has breached the terms of the authorisation or Norwegian law. Authorisations may also be revoked if a gambling device used in the gambling activity does not perform satisfactorily or if the holder has breached public policy or otherwise facilitated the creation of an environment harmful to children and adolescents.

Law stated - 29 April 2023

Location

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

No.

Law stated - 29 April 2023

Casino development

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

Land-based casinos are prohibited under Norwegian law.

Law stated - 29 April 2023

Passive/institutional ownership

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

No.

Law stated - 29 April 2023

Responsible gambling

What responsible gambling obligations apply to licensees?

As a rule, authorisation for gambling activities is usually granted only if the licence holder has a non-profit purpose. In assessing whether authorisation should be granted, the Gaming and Foundation Authority will consider the applicant's socially justifiable distribution of the income from the gambling activity (eg, lottery or bingo) and its ability to ensure that minors do not partake in the activity.

The Authority may stipulate additional conditions for authorisations related to combating gaming addiction.

Law stated - 29 April 2023

Taxes

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

Prizes that are considered incidental prizes and exceed 10,000 Norwegian kroner are taxable at a rate of 27 per cent (under section 5–50(1) of the Taxation Act). For professional gamblers, winnings may be considered income through self-employment. As such, they will be taxed as tradespeople and can deduct costs incurred through the gambling activity. Winnings from foreign gambling operators are taxable at the same rate as winnings from Norwegian-based operators.

Prizes won from gambling activities held for the benefit of a non-profit purpose (eg, those provided by Norsk Tipping and Norsk Rikstoto) are exempt from taxation. This exemption may apply to prizes from gambling operators based in other member states of the European Economic Area that are comparable to the gambling activities legally available in Norway and subject to public oversight and control in the applicable country.

Law stated - 29 April 2023

REMOTE GAMBLING



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Types

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

The state-owned monopolies Norsk Tipping and Norsk Rikstoto are the sole licence holders of the right to provide online and mobile gambling in Norway. However, it is not illegal for Norwegians to gamble on foreign-based remote gambling platforms, nor is it illegal for foreign-based operators of those platforms to tacitly provide Norwegian consumers with those services.

Law stated - 29 April 2023

Licensing

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

The criteria for obtaining a licence to operate remote gambling are the same as those for land-based gambling.

Law stated - 29 April 2023

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

The licensing criteria for remote gambling operators and land-based operators do not differ.

Law stated - 29 April 2023

Cross-border gambling

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

Despite Norway's strict gambling laws, Norwegian consumers can legally gamble on foreign-based websites hosted by foreign-based gambling operators without violating Norwegian law. Likewise, foreign-based operators may tacitly offer their services to Norwegian consumers if they hold a licence in another member state of the European Union or the European Economic Area.

The Norwegian authorities may pierce the veil if they suspect that a Norwegian operator with a predominantly Norwegian customer base locates its operations abroad to circumvent Norwegian law. The prohibition of the provision of gambling or related services is generally technology-neutral. Norwegian-based operators are prohibited from providing gambling services indiscriminately to any customer, regardless of nationality, if the services are provided on a website that is hosted on a server located in Norway. It does not matter if the website uses a foreign domain name.

Even operators that have no connection to Norway may be liable if they align and facilitate their business in a way that provides services to customers in Norway.

While a foreign-based operator may tacitly offer its services to Norwegian consumers without breaching Norwegian law, the Gaming and Foundation Authority may still seek to hinder its business by enacting resolutions prohibiting Norwegian-based financial institutions and payment service providers from facilitating gambling-related payments between gambling operators and their customers.

Law stated - 29 April 2023

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

The state-owned Norsk Tipping and Norsk Rikstoto are the only legal online gambling operators in Norway and have no mandate to operate abroad.

Law stated - 29 April 2023

Taxes

What tax rate applies to each form of remote gambling?

Prizes that are considered incidental prizes and exceed 10,000 Norwegian kroner are taxable at a rate of 27 per cent (under section 5–50(1) of the Taxation Act). For professional gamblers, winnings may be considered income through self-employment. As such, they will be taxed as tradespeople and can deduct costs incurred through the gambling activity. Winnings from foreign gambling operators are taxable at the same rate as winnings from Norwegian-based operators.

Prizes won from lotteries held for the benefit of a humanitarian or socially beneficial aim (eg, those provided by Norsk Tipping and Norsk Rikstoto) are exempt from taxation. There are no specific rules on taxation regarding remote gambling.

Law stated - 29 April 2023

INTELLECTUAL PROPERTY

Patents

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

Yes, gambling games are patentable in Norway, provided that the game is considered a product, process or method that is new, innovative and useful.

The game must possess a technical character and technical effect and be capable of being manufactured (ie, reproducible). As the game must be useful, it must work. If the game is meant to be a source of income, it must also be considered useful to someone.

Business concepts are not patentable under Norwegian law.

Law stated - 29 April 2023

Trademarks

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

The marketing of gambling activities in Norway is strictly prohibited. However, Norwegian consumers are free to use foreign-based gambling services, and the providers of those services are likewise free to market their services or those of other providers on their own websites, provided that this marketing is not considered to be directed at Norwegian users.

Law stated - 29 April 2023

ADVERTISING**Restrictions**

What types of restrictions apply to advertising gambling games?

Excluding the state-owned monopoly held by Norsk Tipping and Norsk Rikstoto, the marketing of gambling activities in Norway is strictly prohibited. However, this prohibition is not effectively enforced by the Gaming and Foundation Authority owing to a lack of resources.

If the marketing is conducted passively through a foreign-based company without targeting Norwegians, it is likely to fall outside the scope of the prohibition and, therefore, will be considered legal. As such, Norwegian consumers are free to use foreign-based gambling services, and the providers of those services are likewise free to market their services or those of other providers on their own websites, provided that this marketing is not considered to be directed at Norwegian users.

Law stated - 29 April 2023

SUPPLIERS**Licensing**

What types of suppliers to gambling operators require licences?

Suppliers are not subject to specific licensing requirements.

Law stated - 29 April 2023

Registration

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

There is no registration or other process that suppliers are subject to.

Law stated - 29 April 2023

LABOUR AND EMPLOYMENT**Wage and hour rules**

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

Land-based casinos are prohibited under Norwegian law.

Law stated - 29 April 2023

Collective labour

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

Land-based casinos are prohibited under Norwegian law.

Law stated - 29 April 2023

ACQUISITIONS AND CHANGES OF CONTROL

Change of control

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

Norwegian gambling law does not impose conditions or restrictions on changes of control or substantial changes in the shareholdings of licensees.

Law stated - 29 April 2023

Bankruptcy

How are gambling licences treated in bankruptcy?

Gambling licensees are treated the same as other debtors undergoing bankruptcy. There are no requirements to acquire approval from the Gaming and Foundation Authority before taking possession of the assets of a gambling licensee. A gambling licence cannot be possessed, nor can debts be secured against the licence.

Law stated - 29 April 2023

QUASI-GAMBLING

Regulation

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

Fantasy sports or other forms of quasi-gambling that are classified as lotteries under Norwegian law are treated in the same way as traditional gambling activities. An activity will be classified as a 'lottery' if it requires a stake, offers a prize and relies on total or partial chance.

Norwegian law interprets the term 'stake' broadly in that the provision of private emails, the use of a telephone with payment beyond the normal rate or a paid membership being required for participation will be treated as a stake. Free games are not considered gambling.

Pure skill gaming does not have the element of chance; therefore, it is not treated as gambling under Norwegian law.

Law stated - 29 April 2023

Licensing

Does your jurisdiction license quasi-gambling operators?

If the quasi-gambling activity is considered a 'gambling scheme' under Norwegian law, it is subject to the same requirements as traditional land-based or remote gambling activities.

Law stated - 29 April 2023

Other restrictions

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

If the quasi-gambling activity is considered a 'gambling scheme' under Norwegian law, it is subject to the same restrictions as all other forms of gambling.

Law stated - 29 April 2023

LITIGATION

Recent cases

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

Not applicable.

Law stated - 29 April 2023

UPDATE AND TRENDS

Key developments of the past year

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

With the enactment of the new Gambling Scheme Act on 1 January 2023, the Gaming and Foundation Authority has ramped up its enforcement activities. It remains to be seen how the gambling market will react to this and whether the increased activity signals a change in the Authority's stance towards foreign-based gambling operators that tacitly offer their services to Norwegians.

Law stated - 29 April 2023

Jurisdictions

	Australia	Addisons
	Belgium	Vlaemminck.law
	Brazil	Maia Yoshiyasu Advogados
	Colombia	Asensi Abogados
	Finland	Legal Gaming Attorneys at Law
	Germany	SKW Schwarz
	Gibraltar	ISOLAS
	Hong Kong	Mayer Brown
	Japan	Anderson Mōri & Tomotsune
	Macau	Rato, Ling, Lei & Cortés Advogados
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	Norway	Brækhus Advokatfirma
	Portugal	Rato, Ling, Lei & Cortés Advogados
	South Africa	Herbert Smith Freehills LLP
	United Kingdom	Harris Hagan
	USA	Orrick, Herrington & Sutcliffe LLP