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Outlook 2020: Gambling Legislation and Enforcement in the Netherlands

The Dutch government is updating its legislation and policy on both online gambling and land-based gambling. In GT Alert, we briefly describe the most relevant legal developments of 2019 in this area, and also look forward to 2020.

Online gambling's illegality in the Netherlands notwithstanding, the number of people in the Netherlands who participate in online gambling has increased steadily over the last few years. [According to research of Motivaction \(link in Dutch\)](#), 1.8 million Dutch people admitted to having participated in an online gambling game (at least) once. Most gambling websites operate in other countries (such as Isle of Man, Gibraltar, Malta) and are accessible to Dutch gamblers from these locations.

Enforcement in 2019

Currently, the Netherlands Gambling Authority (*Kansspelautoriteit*) actively enforces the ban on online gambling through several administrative instruments, most notably imposing fines on gambling websites approaching the Dutch market. [According to the Netherlands Gambling Authority \(link in Dutch\)](#), a gambling website actively approaches the Dutch market if (amongst other acts) it offers its website in the Dutch language; uses a Dutch domain name or flag; and/or it displays iDEAL (a Dutch online payment service) as a payment option.

In 2019, the Netherlands Gambling Authority imposed EUR 3.5 million in fines on several parties. A fine of EUR 470,000 was imposed on a party that provided an iDEAL payment option and included a Dutch chat service on its website. Another party was penalized EUR 400,000 for having a contact form in Dutch available on its website (in addition to offering an iDEAL payment option).

Remote Gambling Act

To regulate and control online gambling, the Dutch Senate (*Eerste Kamer*) approved the Remote Gambling Act (*Wet kansspelen op afstand*) in February 2019. This new legislation legalizes online gambling for providers that have obtained a permit. Permits can be issued for the following categories: (i) online casino games for player versus permit holder, (ii) online casino games for player versus player, (iii) online bets based on sports games, and (iv) online bets on the results of horse racing and harness racing.

The Ministry of Justice and Security is, however, still fleshing out the underlying legislation. One of the notable ongoing discussion points is the grounds for a permit application.

Until a party has obtained a permit, the Netherlands Gambling Authority may enforce the ban on online gambling and prosecute gambling websites actively approaching the Dutch market. In addition, as of 1 January 2020, the Netherlands Gambling Authority will **actively prosecute** ([link in Dutch](#)) gambling websites that do not correctly perform an age check on the players.

Obtaining a permit under the Remote Gambling Act

A permit application under the Remote Gambling Act is assessed on multiple grounds; while yet to be finalized, such grounds will contain substantial and formal elements.

The substantial check consists in part of assessments regarding integrity, financials, consumer protection and addiction prevention, action against match fixing, prevention of money laundering and financing terrorism, and (digital) communication and business processes. All information needed for this substantial check must be supported by sufficient documents.

Besides the substantial check, there are multiple formal stipulations. A permit application will cost EUR 45,000, which will not be refunded if the permit is denied. Moreover, the applicant must be registered with the Central Exclusion Register (*CRUKS*) and have a representative in the Netherlands. In addition, gambling websites that have actively approached the Dutch market (therefore, illegally) are not eligible for a permit for two years after committing the offense. Accordingly, the parties that received the aforementioned fines from the Netherlands Gambling Authority are not eligible for a permit in the near future. It is partly due to this legislation and the possibility of obtaining a permit that gambling websites have been cooperating with the Dutch Gambling Authorities since the House of Representatives (*Tweede Kamer*) first passed the law in 2016.

The Remote Gambling Act will also offer authorities additional law enforcement methods, such as prosecuting parties cooperating with illegal gambling websites.

When will the Remote Gambling Act be implemented?

Although the legislation was approved by the Dutch Senate in February 2019, its implementation is (for now) postponed until 1 January 2021. Since authorities indicated it will take six months to assess a permit application, and permit applications can (most likely) be submitted only starting from 1 January 2021,

online gambling will be prohibited in the Netherlands until (at least) 1 July 2021, as we do not expect permits to be issued before that time.

The Netherlands Gambling Authority indicated ([link in Dutch](#)) that while over 180 parties have expressed interest in such a permit, it expects to issue approximately 90. Until the implementation of the legislation is finalized and permits are issued, online gambling will remain illegal in the Netherlands.

Land-based gambling

Currently Holland Casino is the only legal provider of land-based casino gambling. Holland Casino is wholly owned by the Dutch State. Therefore, land-based gambling remains a state monopoly in the Netherlands.

The government wants to privatize Holland Casino, since it does not consider casino exploitation a government duty. According to the original proposal, of its 14 casino establishments, 10 will continue as Holland Casino, and the other four will be sold separately. The aim is to make two permits for new casinos available.

In February 2019, the Dutch Senate postponed the privatization of Holland Casino. Given the introduction of online gambling permits, the Senate considers it undesirable to implement changes in land-based gambling simultaneously. The Minister for Legal Protection said ([link in Dutch](#)) not to make another attempt to privatize Holland Casino during the present government's term of office, which will last until March 2021.

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