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GUIDES 2022**

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Denmark

GAMBLING LAW

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This country-specific Q&A provides an overview of gambling laws and regulations applicable in Denmark.

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DENMARK GAMBLING LAW



1. What is the legal definition of gambling?

A “game” is defined as any activity that falls within one of the following categories:

- lotteries, where the chance of winning is solely based on chance.
- combination games, where the chance of winning is based on a combination of chance and skill; and
- betting, i.e., where the chance of winning is dependent on the outcome of an event.

2. What legislation applies to gambling? Please provide a summary of the legal/regulatory framework.

The primary legislation for gambling activities in Denmark is the Danish Act on Gambling (“Gambling Act”). The Gambling Act applies to all games offered to the Danish market.

Supplementing the Gambling Act is a series of specific Executive Orders.

Licensed games in Denmark shall also have their games certified in accordance with the DGA’s certification programme.

The provision of gambling in Denmark is subject to the AML Act and general rules on marketing in the Danish Marketing Practices Act, which supplements the marketing provisions in the Gambling Act. Furthermore, financial regulation is relevant in relation to the supply of payment services, e-money, etc., as well as regulation on consumer protection in relation to information requirements towards players, which can be applicable. Additionally, there are rules on the players’ right to withdraw from a transaction. Finally, licensed games are subject to the Danish Gambling Duties Act.

All the Relevant Products are permitted according to Danish Law, conditional upon specific requirements. However, please note that commercial lotteries are a

monopoly.

3. Which body/ies regulate gambling?

The Danish gambling market is supervised by the Danish Gambling Authority (“DGA”), the Danish Ministry of Taxation, and the Danish Consumer Ombudsman. As regards licensing, it is the DGA that issues the licence to provide gambling and supervise and monitor the Licensees.

4. Are licences available? If so: a) What is the duration of a licence? b) What types of licences are available? c) Are there different types of licences for B2C and B2B operators? d) Do software suppliers need to be licensed?

The provision of a game (as defined under section 1) requires a licence from the DGA if the game (i) is offered to the Danish market, (ii) is subject to the payment of a stake to participate.

The different licences are issued for different periods of time: the “revenue-restricted” licence to provide online gambling is limited to one year; whereas a normal licence to provide online gambling (betting and/or online casino) can be issued for up to five years. Before the expiration of the licence, it is possible to apply for renewal.

The land-based casino licence is issued for a period of up to 10 years, while the limited land-based gaming machine licence is issued on an individual basis and may be granted for an unlimited period.

In general, Danish gambling licences can be divided into two main categories: 1) online gambling licences; and 2) land-based gambling licences.

1) Online gambling

There are two different types of online gambling licence

available in Denmark: a betting licence; and an online casino licence. The betting licence also covers the provision of land-based betting.

2) Land-based gambling

As for land-based gambling, there are two main types of land-based licence available in Denmark: a casino licence; and a limited licence covering only gaming machines.

Further, it is possible to apply for a revenue-restricted licence according to which the gross gambling revenue (stakes minus winnings) ("GGR") cannot exceed DKK 1,000,000 (approximately EUR 134,463).

It is also possible to apply for turnover-restricted manager games according to which the turnover cannot exceed DKK 5,000,000 (approximately EUR 672,315) and the repayment percentage (percentage return) cannot exceed 20%.

There are no limits on the quantity of licences to provide online gambling, or on having gaming machines in arcades or restaurants.

There is a restriction on the amount of land-based casino licences that may be issued.

It is not possible to get key personnel or subcontractor licences, and subcontractors are generally not obligated to obtain their own licence - on the condition that they only act as suppliers to the gambling operator. However, this conclusion is based on a specific assessment of the obligations between the parties.

B2C:

Online gambling operators contracting with players directly must hold an online gambling licence to provide gambling in Denmark.

B2B:

Online operators (suppliers, software, etc.) that do not contract directly with players, but only provide services to gambling operators, are not required to hold a licence.

No, see question 4c.

5. Are any types of gambling products prohibited?

Cash deposits to online gambling accounts are prohibited. Further, a licence-holder may not permit transfers of money, gambling tokens, etc. between gambling accounts.

It is prohibited to offer online lotteries as these activities are reserved exclusively for the state-owned company "Danske Spil".

Furthermore, pyramid scheme games are prohibited in Denmark.

6. What is the headline application procedure? Please include any eligibility and other application requirements, including approximate application costs and any need to establish a local presence.

To obtain a licence, the applicant must apply to the Danish Gambling Authority. There is an application form that must be filled out.

As mentioned above, Danish gambling licences can be divided into two main categories: 1) online gambling licences; and 2) land-based gambling licences.

1) Online gambling

The application fee is DKK 295,800 (approximately EUR 39,769) for a betting licence or an online casino licence (2022 level); however, if the party applies for a combined betting and online casino licence, the fee is DKK 414,100 (approximately EUR 55,674) (2022 level).

For applicants with an annual GGR of less than DKK 1,000,000 (approximately EUR 134,463), a "revenue-restricted" licence may be issued, and the fee is DKK 59,200 (approximately EUR 7,959) per licence (2022 level).

Online gambling operators must pay an annual fee for holding the licence. The fee is based on their GGR. Additionally, licence-holders must pay gambling duty based on their GGR.

Any person interested in providing online gambling to the Danish market must (i) be at least 21 years old, (ii) not have a legal guardian, (iii) not be subject to insolvency proceedings, (iv) not have been convicted of criminal offences which render it probable that the person will abuse their access to gambling, and (v) not have any debt owing to public authorities.

If the person does not live in Denmark or in another EU/EEA country, the person must have appointed a representative living in Denmark or - if the appointed representative is a legal entity - established in Denmark.

Any company that is interested in providing online gambling to the Danish market must be established within the EU/EEA or have an appointed representative

in Denmark.

Furthermore, the members of the board and the directors must meet the requirements for physical persons mentioned above.

If these minimum requirements are met, the applicant must further prove that it will be able to provide online gambling in a sound financial and professional manner.

The DGA will consider the overall picture, and if it finds that the necessary requirements are met, it will issue a licence. From the handing in of an application to the DGA, the issuing of a licence will normally take between three to six months.

2) Land-based gambling

The process when applying for a land-based casino licence and a licence to set up gaming machines is like the one described above and supplemented by the Executive Orders on land-based casinos and gaming machines in arcades and restaurants. Accordingly, there are, e.g., requirements for the persons working within a land-based casino.

At the time of writing (October 2022), there are nine land-based casino licences. For now, it is not possible to apply for new land-based casino licences. It is only possible to apply for a licence when one of the current licences become available or if the DGA opens for new applications.

Applying for a licence to set up gaming machines is subject to a fee of DKK 678 (approximately EUR 91) (2022 level) per gaming machine.

7. Do individuals within the business need to be personally licensed or authorised? If so, please provide headline requirements.

No, it is only the gambling operators that need to obtain a license.

8. Is advertising of gambling permitted and, if permitted, how is it regulated?

Advertising of gambling is permitted. The provision of gambling in Denmark is subject to general rules on marketing in the Danish Marketing Practices Act, which supplements the marketing provisions in the Gambling Act.

All marketing of gambling must (i) present the odds of winning in a correct and balanced way so that it does not

give the impression that the chance of winning is greater than it actually is, (ii) present gambling as entertainment, (iii) not be targeted at children or persons under 18 in relation to the design of the communication or the choice of media used, (iv) not use well-known persons to suggest, contrary to the truth, that participation in gambling has contributed to the person's success, and (v) not have any content that gives the impression that participation in gambling offers a solution to financial problems or gives the player social acceptance.

Further, information such as the age limit of the game, the DGA's hotline concerning responsible gaming and the possibility of listing in the state-controlled Register of Voluntarily Excluded Players ("ROFUS") shall be stated when marketing games. The gambling operator must also use the DGA's labelling scheme in the marketing material.

There is no ban on international liquidity in betting pools and casino games.

Land-based licences have specific requirements regarding opening hours, etc. Land-based providers must give full access to the public (except for persons under the age of 18), regardless of nationality.

Furthermore, consumer loans companies are prohibited from marketing consumer loans and consumer lending businesses in conjunction with advertisements for gambling and gambling providers. It is important to note that the companies to be charged are the consumer loans companies and the companies that provide consumers with credit facilities in connection with gambling and gambling providers. The gambling providers are not directly subject to the provisions.

9. Are marketing affiliates permitted? If so, are they licensed or regulated?

Gambling operators are permitted to use affiliates, which in the Danish gambling market is often seen in relation to advertisement of the gambling operator's website or games. Affiliates do thus not need permission from the DGA.

The Danish regulation on consumer protection and marketing and the provision regarding marketing and advertisement in the Gambling also apply for affiliates.

10. What are the penalties for offering, facilitating or marketing unlawful gambling, and can the gambler be

penalised for participating in unlawful gambling?

The sanctions for breaching the Danish gambling legislation/regulation range from a warning to up to two years in prison, dependent on the specific offence. The most common sanctions are a warning and an order to correct the offence or a fine. The DGA does not have the power to issue fines and thus will be obligated to hand over the matter to the Danish police, with the recommendation that the police issue a penalty notice which the violator can choose to accept and try in court. The DGA can also choose to revoke the gambling provider's licence.

In relation to gambling providers who direct their provision of gambling to the Danish market without a valid licence, the DGA will request the Bailiff's Court to issue an ISP block of the website.

Anyone assisting the gambling provider can in theory be considered complicit, and thus also be held liable.

11. Briefly detail key requirements for licensees.

The key requirements for licensees are (i) the applicant must be at least 21 years old, (ii) not have a legal guardian, (iii) not be subject to insolvency proceedings, (iv) not have been convicted of criminal offences which render it probable that the person will abuse their access to gambling, (v) not have any debt owing to public authorities and must pay the necessary fee with the application. For further details, please see question 6.

12. Briefly detail key anti-money laundering requirements.

The provision of gambling in Denmark is subject to the AML Act. The AML Act has implemented the EU's AML directives, most recently the Fifth Directive.

All gambling providers are required to identify and assess the risk of money-laundering and financing of terrorism within their business based on their business model. Regarding that risk assessment, they are required to have sufficient written policies, procedures and controls that can effectively limit the risk of money-laundering and financing of terrorism. Additionally, the gambling providers are required to commence customer due diligence with their customers. In certain situations, customer due diligence may require enhancement, while in other situations simplified due diligence is sufficient.

13. Briefly detail key responsible gambling (or safer gambling) requirements.

The purpose of the Gambling Act is (i) to maintain the consumption of gambling services at a moderate level, (ii) to protect young people and other vulnerable people from being exploited through gambling or developing a gambling addiction, (iii) to protect players by ensuring that gambling is provided in a fair, responsible and transparent manner, and (iv) to ensure public order and to prevent gambling as a means to support crime.

This results in several obligations being imposed on Danish licence-holders, and especially on holders of a Danish licence to provide online gambling.

Such obligations include the obligation for online gambling providers to monitor the players' consumption of gambling, providing the players with the possibility of "cooling off periods" and providing access to ROFUS, as well as having their gambling system set up so that every time a player attempts to log in, the system automatically checks whether the player has registered himself with ROFUS, and if so, the system denies him access to his account.

Further, there is a requirement for the players to fix a daily, weekly, or monthly deposit limit for their game before beginning the game. An attention duty upon the online gambling operator in relation to abnormal gaming patterns that indicate gambling problems with the players will be imposed. Furthermore, all players listed in ROFUS decline to receive marketing material from a gambling operator in the exclusion period. The gambling operator must therefore consult ROFUS to check whether the player is listed therein before sending marketing material to the player.

14. Briefly detail shareholder reporting and approval threshold(s).

It is a requirement to notify the DGA, when the beneficial owner of the gambling operator holding the license changes. The Danish Gambling Authority follows the definition in the Danish Companies Act in which a beneficial owner is defined as a natural person who ultimately owns or controls a company through direct or indirect ownership of a sufficient percentage of the shares or voting rights, or through control via other means.

In general, a sufficient percentage of the shares or voting rights corresponds to ownership or control of more than 25% of the company. This, however, is only an indication of beneficial ownership. According to the

Danish Business Authority, a natural person may also be considered a beneficial owner, if the shares or voting rights is 25% or less if the natural person otherwise exercises, or has the right to exercise influence or control.

15. Briefly detail the regulator’s enforcement powers, including sanctions.

The sanctions for breaching the Danish gambling legislation/regulation range from a warning to up to two years in prison, dependent on the specific offence. The most common sanctions are a warning and an order to correct the offence or a fine. Please see further in section 10.

16. What is the tax rate?

Type of game		Duty percentage payable	Duty period
Betting (both online and land-based)	General	28% of the GGR, defined as received stakes minus paid out winnings.	One calendar month.
	Betting exchanges (both online and land-based)	28% of the amount charged in commission.	
Online casinos	General	28% of the GGR.	One calendar month.
	Poker and other cases where the gambling operator’s profit is the commission charged	28% of the amount charged in commission.	
Land-based casinos		45% of the GGR minus the amount of special tipping chips plus an additional 30% on the part of the GGR that exceeds DKK 4,325,500 (approximately EUR 582,529).	One calendar month.
Physical gaming machines in restaurants or gaming arcades		41% of the GGR. For gaming machines in restaurants, an additional 30% on the part of the GGR that exceeds DKK 32,500 (approximately EUR 4,369) is added. For gaming machines in gaming arcades, an additional 30% on the part of the GGR that exceeds DKK 270,400 (approximately EUR 36,353) is added plus DKK 3,200 (approximately EUR 430) per machine up to 50 machines and DKK 1,600 (approximately EUR 215) per machine exceeding 50.	One calendar month.
Non-profit lottery	Cash prizes	17.5% of the amount that exceeds DKK 200 (approximately EUR 27).	15 days after the result of the lottery has been decided.
	Prizes consisting of goods or services (market value)	17.5% of the amount that exceeds DKK 750 (approximately EUR 100).	
Prizes in connection with free games (i.e., games where no stake is paid)	Cash prizes	17.5% of the amount that exceeds DKK 200 (approximately EUR 27).	15 days after the result of the lottery has been decided.
	Prizes consisting of goods or services (market value)	17.5% of the amount that exceeds DKK 750 (approximately EUR 100).	

17. Are there any proposals for changing gambling laws and regulations in the next

12-24 months? If so, please provide an overview of the proposed changes and likely timing.

There are currently ongoing discussions regarding further restrictions on marketing including a prohibition of the advertisement of gambling 15 minutes before and after broadcasted sports events. Further, it is considered to ban the use of well-known people in commercials for gambling. The Minister of Taxation has invited the parties of the parliament for discussions during the autumn 2022.

Further there is a focus on strengthening the DGA's supervision of the gambling industry including combating match-fixing

It is expected that amendments will be introduced in 2023, but it is still early days.

18. What key regulatory developments are proposed or on the horizon in the next

12-24 months?

See question 17.

19. Do you foresee any imminent risks to the growth of the gambling market in your jurisdiction?

There is a constantly increased focus on the gambling industry (including sports betting) from the politicians, as the provision of gambling is considered a "sensitive area", which can result in increased and intensified regulation of the market. However, at the same time it is very stable and well-regulated market.

20. If a gambling start-up was looking for a jurisdiction in which to commence its activities, why would it choose yours?

Since 2012, the Danish Gambling market has been highly and well-regulated ensuring a trusted and secure environment for the gambling operators and players.

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