

GamblingCompliance



Estonia – A Regulatory Report

GamblingCompliance Research Team

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GamblingCompliance
Sample Regulatory Report

Estonia's Gambling Act 2009 came into force this year, introducing an online gambling regulatory regime. Some changes are yet to come into effect with discussion on machine certification and blocking measures continuing.

1. Executive Summary

Estonia has thoroughly modernised its gambling regulation with the coming into force of the Gambling Act 2009.

The Act was introduced to better regulate and control an industry which had grown into many small, widely dispersed gambling locations. The government sought to decrease the demand for gambling through industry consolidation by raising machine numbers and giving local authorities more power to control where a gambling locations can be placed.

The legislative update also allowed Estonia the opportunity to regulate previously unregulated types of gambling, such as online gambling. For online gambling Estonia chose to implement a non-discriminatory local licensing system, bolstered by measures to stop unlicensed operators penetrating the market and in effect protect Estonian gambling licensees from what the government would consider unfair competition.

B2B possibilities are also considered under the Act, where procedures are outlined to allow the transfer of activities needed to organise gambling. Poker tournaments and other similar gambling tournaments also became regulated and licensed activities for the first time through the new Act.

The Act has brought in both new and increased share capital requirements for gambling operators, with licence requirements formalised into a two tier system consisting of activity licences and operating permits. With a new gambling act in force the government has also found it necessary to enact new taxation legislation and regulations, with Estonia's advertising act also undergoing slight reform.

While there are further transitional provisions to take effect over the next few years, it is the next few months which will see Estonia further crystallise its regulatory framework with respect to both online gambling (including financial transaction and ISP blocking measures) and the certification of gambling machines (including guidance for operators and testing labs). The implementation of the blocking measures has received comments from both the Estonian Banking Association and the Estonian Association of Information. On the issue of testing labs, there will be no list of recognised experts, it falling on the testing labs to satisfy the regulator (the Tax and Customs Board) that the lab has the required expertise.

The state-owned lottery, Eesti Loto has retained its monopoly over most lottery products under the new Act. In contrast to the private sector which has suffered throughout the year, the lottery has seen its revenues increase by over 30 percent year-on-year. The lottery is also seeking to offer an online distribution channel; however, it is still uncertain whether the lottery will be able to expand its operations to include online casino and skill games.

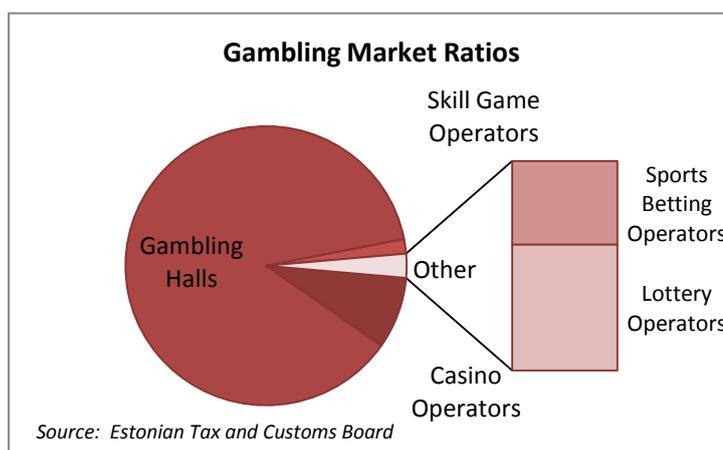
The effect of the regulatory change and the timing of the Act's implementation (coming into force in the thick of the global downturn) has been stark - with the terrestrial gambling sector seeing equipment numbers plummet and operators shutter some of their premises. Olympic Entertainment Group exemplify both the difficulties and the opportunities the industry is facing in Estonia – Olympic's terrestrial operations have suffered throughout the year, however, likely seeking to gain first-mover advantage, the Group has partnered with Playtech for the technology company to provide Olympic with platform solutions which would enable Olympic to open online casinos.

2. Gaming Market Today

Estonia's gambling market has historically been a terrestrial, slot machine dominated market consisting of casinos, slot halls, betting premises and lotteries.

After the country emerged from behind the Communist Bloc, the 1990s saw Estonia enact the [Law on Lottery 1994](#) and [Law on Gambling 1995](#), which regulated the industry and facilitated its growth. During this time, Olympic Entertainment Group (which began operations in 1993) grew within Estonia and expanded its casino operations to neighbouring countries and further afield, emerging into a regional player.

Estonia has historically had a large number of small slot or gambling halls as is illustrated in the chart entitled 'Gambling Market Ratios'. It was the prevalence of these smaller establishments and the location of these establishments that Estonian officials wished to address through new legislation. The growth in slot halls was made possible by the low number of minimum machines (8) stipulated under the Law on Gambling 1995.

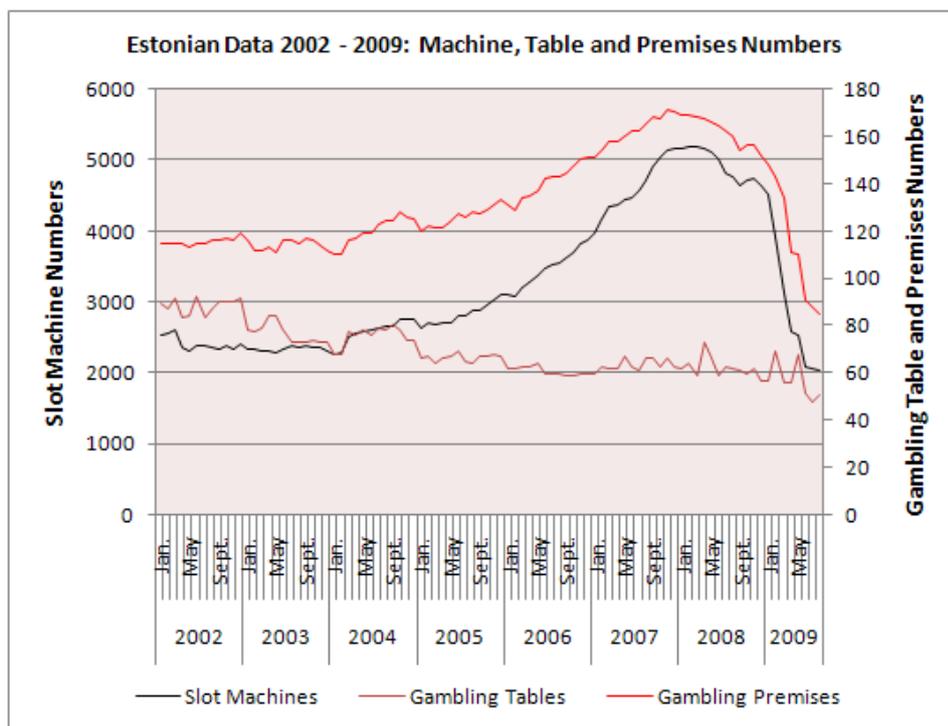


The [Gambling Act 2009](#) ('the act' herein) came into force on January 1, 2009 (save for a number of transitional provisions) and consolidated into one act the two laws governing gambling. Objectives of the act included to consolidate Estonia's gambling industry and to decrease the demand for gambling. This was achieved through raising both the minimum gambling equipment numbers and the minimum levels of share capital required by gambling operators.

Other objectives of the new legislation were:

- To protect underage citizens, pathological gamblers and those at risk of becoming pathological gamblers.
- To improve the supervision of gambling.
- To prevent the gambling industry from being used for money laundering and ensure the identification of persons entering gambling locations.
- To update the regulatory environment to take into account the new forms of gambling, such as online gambling, which have emerged since the laws enacted in the 1990s.

The chart below shows the performance of Estonia's gambling industry based on monthly data held by the [Estonian Gaming Operators Association](#) (Eesti Hasartmängude Korraldajate Liit). The effect of the new gambling legislation is evident. After a surge in both slot machines and gambling premises between 2005 and 2007, since the Gambling Act 2009 was passed in October 2008, there has been a dramatic decline in both slot machine numbers, gambling table numbers and the number of gambling premises. Based on the available data, it appears the authorities have been successful in achieving the goal of industry consolidation.



The creation of a local regulatory framework for online gambling puts Estonia at the vanguard of a host of European Union countries, such as France and Denmark, which are considering how to regulate online gambling.

Remote gambling is subject to transitional provisions and will not become a regulated activity until 2010. Nonetheless, interest in these developments has already emerged. Olympic Entertainment Group recently announced a partnership contract with Playtech for it to provide Olympic with platform solutions which would enable Olympic to open online casinos. While Olympic's move online is being framed in terms of all its "current operating markets", the fact that Estonia will permit online gambling from 2010 has clearly been a motivating factor in Olympic's decision to move online. Olympic Managing Director Andri Avila said that the company intends to compete with the many online players already operating on the local market:

"It is not our primary aim to seek new customers, instead we hope that the people spending time in online casinos would henceforward prefer the brand they already know and trust."

While online gambling becomes a subject to licensing in 2010, there has been some form of online gambling available from within Estonia for a number of years. For example, Spordiennustus, a joint venture between the Estonian Olympic Committee and Pafer A/S (part of the Paf group from the Åland Islands) has offered online sports betting since 2004 and online scratch cards since 2005.

Of note, the Estonian state has retained its monopolistic role in organising lottery products under the new Act. However, there has been debate into whether Estonia should privatise Eesti Loto, the large state owned lottery company. The reason for the suggestion is to raise additional income for the state during the economic downturn.

The authorities' means of meeting the objectives of the new act was to create a new regulatory regime which encompasses measures such as identification requirements; exclusion lists; age requirements; e-tax reporting obligations by operators and the creation of a new electronic calculation and inspection system.

3. Regulatory Framework

3.1 Notification to the European Commission of the New Gambling Act: Comments and Detailed Opinion Received

Estonia notified the draft Gambling Act to the European Commission on March 11, 2008. The following observations were also sent on the justification for the new legislation:

“The purpose of the state regulation regarding organisation of gambling and surveillance carried out by the state is deliberately and under supervision to decrease the demand for gambling, preventing and limiting thereby the possible negative economic and social consequences (treatment of gambling addicts, decreased efficiency deriving from gambling addiction, social expenses as expenses related to divorce, etc.) related to gambling activities, criminal offences (money laundering) and fraud included. The current regulation is characterised by problems pertaining to the classification of gambling. An increase in the number of gambling addicts is also distressing. Studies conducted reveal that in the years 2004–2006 the number of people addicted to gambling (between ages 15–74) increased by 3 percent.”

While the standstill period expired on June 12, 2008, it wasn't until June 13, 2008 that Estonia received a detailed opinion from Malta and on June 25, 2008 that Estonia received a detailed opinion from the European Commission.

The commission's concerns centred around what it believed were obstacles relating to the establishment rights of EU-based companies and obstacles to the provision of services. However, Estonia's position was that some of the concerns were based on translation issues. Based on the comments Estonia received it subsequently changed some portions of the notified draft and passed the gambling bill in October 2008. Authorities in Estonia have maintained that the Gambling Act is non-discriminatory and does not place more onerous obligations on companies from other member states. The fact that shareholder capitalisation requirements are expressed in Euros is an example of the non-discriminatory nature of the act, according to officials in Estonia.

A final version of the Act was sent to the commission shortly after it was passed by parliament. To date the Estonian government has not received any further communications from the commission regarding its new Gambling Act.

3.2 Types of Gambling: Categories and Sub-Categories

The previous gambling framework in Estonia's listed five broad categories of gambling: games of chance; games of skill; totalisators; betting games and lotteries. The Gambling Act 2009 continues with these categories, with the creation of further subcategories of gambling.

Chapter 1 of the Act creates these categories and sub-categories of gambling. For a game to be considered gambling it must meet the following characteristics:

1. A stake made by the player is the condition for participating in a game;
2. Players may win prizes as a result of the game;
3. The result of the game is determined completely or partially by actions based on chance, or depends on the occurrence of an event not known in advance.

Categories of Gambling

- Games of chance

These are defined as "games whose result depends on chance and which take place using a mechanical or electronic apparatus or through the agency of a game organizer". Games of chance are further sub-divided into the following two sub-categories:

- Gambling machines.
- Gambling tables.

A third sub-category of games of chance is created - "additional games of chance – which upon compliance with the conditions provided in the rules of game afford the player at the gambling machine or gambling table the opportunity for a prize collected from the stakes from gambling machines or gambling tables, or otherwise predetermined prize". Jackpots would likely fall under this definition.

- **Lotteries**

Lotteries are divided into two sub-categories:

- Passive lotteries
- Instant lotteries

- **Betting**
- **Games of skill**
- **Remote/Online gambling**
- **Tournament of a game of chance**
- **Promotional/Commercial lottery**

3.3 Games not considered gambling

The following games not considered gambling under the Act:

- Games of skill where the only prize is the opportunity to play again.
- Sports competitions.
- Lotteries in which the prize fund is up to €1,000.
- Promotional lotteries in which the prize fund is up to €10,000.

3.4 New Licensing Regime: Activity Licence and Operating Permits

Under the Gambling Act, organisers of all forms of gambling (both terrestrial and online) need to hold an activity licence and an operating permit/licence to organise gambling.

Activity Licence

Division 2, Section 16 of the Act provides the following criteria regarding an activity licence. Notably an activity licence is valid for an unspecified period of time and is non-transferable:

1. An activity licence entitles a person to apply for an operating permit for organising gambling. The activity licence is for an unspecified term and is not transferable.
2. A separate activity licence shall be issued for:
 - 1) organising games of chance;
 - 2) organising pari-mutuel betting;
 - 3) organising games of skill.
3. The Tax and Customs Board shall decide on the issuance or denial and invalidation of activity licences.

4. The activity licence shall be terminated upon declaration of bankruptcy of the holder of the activity licence.

Applicants are required to submit a signed application to the Tax and Customs Board listing their name and registry codes; location and address details; the category of gambling the applicant is going to be organising; their position and the date the applicant paid the required fees. An annexure containing probity information and shareholder information should also be attached.

Activity licence requirements and the rights of the Tax and Customs Board to grant, investigate and refuse an activity licence are found in Division 2 of the Act.

An organiser is required to notify the Tax and Customs Board of any changes in information they provided with respect to their activity licence application.

Operating Permit

Division 3 of the gambling act provides for the requirement of an operating permit. Importantly a separate operating permit is required for each type of gambling activity being organised, with operating permits valid for 20 years for most forms of gambling, apart from online gambling (5 years) and instant lotteries (3 years). Moreover, municipal governments are given power to consent to the location of a proposed gambling centre. Such consent will be given for 20 years, or in the case of betting and games of chance (slot machines and gambling tables), consent can be given for between 5 to 20 years. Local council's may pass a regulation to allow games of chance locations.

Division 3, Section 22 of the Act provides the following general remarks for operating permits:

- (1) A separate operating permit (hereinafter operating permit) shall be issued:
 - 1) for organising one subcategory of a game of chance at the address or on the ship of a gambling location to be opened, marked in the decision on granting an operating permit;
 - 2) for organising pari-mutuel betting at the address or on the ship of a gambling location to be opened, marked in the decision on granting an operating permit;
 - 3) for organising games of skill at the address or on the ship of a gambling location to be opened, marked in the decision on granting an operating permit;
 - 4) for organising a gambling category or subcategory as distant gambling;
 - 5) for organising a lottery, except for a commercial lottery.
- (2) The operating permit, except for a lottery and pari-mutuel betting for a non-profit organisation described under subclause 9 (7) of the present Act, shall be granted solely to the holder of an activity licence and shall not be transferable.
- (3) An operating permit shall be granted for 20 years, if not provided otherwise in the present Act. An operating permit shall be granted upon opening a location for games of chance, pari-mutuel betting or games of skill, provided that the gambling location is not located on a ship entered in the register of ships of Estonia, for the period marked on the written consent of the relevant rural municipality or city government for opening the location.
- (4) The decision to grant or deny an operating permit shall be made by the Tax and Customs Board within two months of receiving all necessary documents and information and no later than four months after receiving the application for the operating permit.

Applicants are required to submit documents showing their name and registry code; location and address details; the category of gambling the applicant is going to be organising; their position and the date the applicant paid the required fees. An annexure must also be submitted containing the written consent of local authorities (if needed); the quality and types of equipment being installed;

rules of play; security arrangements; and data protection measures. For remote gambling, the internet addresses and contact information which enable the receiving and paying out of bets, and information regarding the bank accounts for the mediation of prizes and winnings need to be listed.

Operating permit requirements and the rights of the Tax and Customs Board to grant, investigate and refuse an activity licence are found in Division 3 of the Act.

An organiser is required to notify the Tax and Customs Board of any changes in information they provided with respect to their operating permit application.

3.5 Gambling Organisers: Share Capital Thresholds, Fees Payable and Major Holdings in Gambling Companies

The Act introduces differing levels of share capital and state fees to be paid depending on the type of gambling being organised. Share capital is expressed in Euros, so not to discriminate between Estonian and other EU-based companies / organisers and therefore fall foul of the establishment freedoms contained in the EU Treaty.

There are two exemptions from the share capital requirements for the benefit of charitable and equestrian purposes. A state-owned company may organise lotteries to accumulate funds in support of a specified purpose of a foundation or a non-profit association. Foundations and non-profit associations who need financial resources to achieve the aims specified in their statutes and in conformity with the law may apply for the support to the Ministry of Finance. Pari-mutuel betting may also be organized by a non-profit organization specified by the Estonian government, the only statutory purpose of which is equestrian and equine related activities.

Gambling operators issued with activity licences before the new Gambling Act came into effect have until January 1, 2015 to bring their share capital into conformity with the new act.

The Act also introduces requirements with respect to holdings in gambling companies. A major holding is considered an indirect or direct share of at least 10 percent of the company. The act contains notification requirements when a major holding is acquired, increased, or changed. The Tax and Customs Board should be notified with data such as identification information, probity information and group structure (if a group). The Tax and Customs Board is given power to set deadlines for an acquisition of a major holding.

3.6 General Requirements For Gambling Organisers

The act contains a number of general requirements gambling organisers. These include:

- Have rules of play.
- Have clear warning on the addictiveness of gambling.
- Have training on gambling addiction awareness for staff.
- Have fraud prevention measures.
- Restrict access to those not entitled to enter/participate, such as those under 21 years of age for games of chance and 16 years of age for lotteries.
- Ensure safety and public order.

3.7 Critical Implementation Dates

The following are some of the implementation dates contained in the new Act.

- January 1, 2009: Gambling Act 2009 comes into effect.

- January 1, 2010: Online gambling provisions come into effect. New machine certification provisions due to come into effect.
- July 1, 2010: Gambling equipment thresholds increase.
- January 1, 2011: Electronic calculation and inspection system provisions come into effect.
- January 1, 2015: Share capital requirements for holders of licences granted prior to 2009 come into effect.

4. Casino

Estonia is home to home grown operators, such as gaming giant Olympic Entertainment, and also local brands of large international casino operators, such as Ritzio (through the brands Bally's and CityCasino). Estonian casinos have been severely affected by the global financial crisis. For example, Olympic Entertainment posted a first quarter loss in revenues in Estonia of 55.9 percent compared to the first quarter of 2008. Olympic also closed seven of its casinos during the first quarter of 2009. The Ritzio group company, Cityclub OÜ, (operator of the CityCasino brand) announced its bankruptcy in August 2009. However, CityCasino are continuing to operate according to local media reports.

4.1 Statistics

Estonia is home to approximately 15 casino operators.

There is a difficulty in gauging the number of casinos because the legislation makes no distinction between a slot hall and a casino – both being 'games of chance operators'. In some instances slot halls have the term 'casino' in their title. Latest statistics (August 2009) show that there are 85 gambling premises in the country, down from 160 in August 2008.

4.2 Legislative Framework

Casino gambling becomes subject to the provisions of the gambling act under the general term 'games of chance', and the subcategory of games of chance: gambling machines and gambling tables.

Casino operators (can be public or private limited companies) are required to have share capital of at least €1m and hold both an activity licence and an operating permit. Since January 1, 2009 casinos have been required to house at least 20 slot machines and 5 tables; and from January 1, 2010 casinos will be required to have at least 40 slot machines and five gambling tables.

Casinos are only allowed to be operated in separate buildings, a hotel/conference/entertainment centre or a shopping centre if entry to the casino is not possible from the shopping centre itself.

People under the age of 21 are not allowed to enter or work directly with games of chance in casinos. Moreover, excluded persons are not allowed entry into casinos and it falls onto operators to create a system to ensure such persons are not permitted entry (the Tax and Customs Board is obliged to create an excluded persons database).

4.3 Licensing

Casino operators are required to hold an activity licence and an operating permit. While the activity licence is for an unspecified term, operating permits are valid for 20 years.

In addition to the share capital requirement of €1m casino operators need to pay fees of EEK750,000 for a review of an activity licence and EEK50,000 for a review of an operating permit.

5. Slot Machines

Slot machines are the most prevalent and popular form of gambling activity in Estonia. With the introduction of the new gambling act, the number of slot machines has dramatically fallen from close to 5,200 machines at the beginning of 2008 to around 2,000 machines in August 2009.

Operators, slot machine manufacturers and testing labs are still waiting for resolution on certification, or more precisely, re-certification. The new Gambling Act requires that all machines, not only new deliveries, need to be certified from January 1, 2010. This process could potentially take many months longer than the January 1, 2010 deadline and incur considerable costs for manufacturers, which in turn may create a disincentive for manufacturers to remain in this relatively small market – especially given the falling machine and revenue numbers in Estonia.

The Tax and Customs Board is still in the process of drafting an instruction on the certification process which stakeholders hope will create certainty and avoid a scenario in which operators/manufacturers will need to have *all* their installed equipment certified by a testing lab by January 2010.

5.1 Statistics

There are currently 2,034 slot machines in Estonia. This is the lowest number of machines in Estonia since before 2002.

5.2 Legislative Framework

Slot machines are considered a subcategory of ‘games of chance’ under the Gambling Act 2009.

Slot machine operators (can be public or private limited companies) are required to have share capital of at least €1m and hold both an activity licence and an operating permit.

From January 1, 2010 slot halls (along with casinos) are required to have at least 40 slot machines and five gambling tables; and since January 1, 2009 slot halls (along with casinos) have been required to house at least 20 slot machines and 5 tables. This is an increase from the minimum 8 machines under the old gambling law. These machine thresholds do not apply to machines on ships.

Slot halls may only be operated in separate buildings, a hotel/conference/entertainment centre or a shopping centre if entry to the slot hall is not possible from the shopping centre itself.

5.3 Licensing

Slot operators are required to hold an activity licence and an operating permit. While the activity licence is for an unspecified term, operating permits are valid for 20 years.

In addition to the share capital requirement of €1m casino operators need to pay fees of EEK750,000 for a review of an activity licence and EEK50,000 for a review of an operating permit.

The serial number of slot machines along with the assessment of an independent expert needs to be submitted to the Tax and Customs Board before the gambling can be organised. The Tax and Customs Board is not planning on having a list of recognised independent experts, as some other jurisdictions. Test labs are required to send the board information confirming their status as experts and demonstrable evidence of their testing and certification knowledge.

5.4 Technical Standards

Slot machines are required to payback at least 80 percent of stakes, with a maximum of €2,000 payout at any one time. If a win is more than €2,000 the operator is required to pay the win through other means, such as a bank transfer or from a cash register at the venue.

The Act lists the following requirements for gambling machines:

- (1) Gambling machines used for organising games of chance must:
 - 1) use a random-number generator to identify game results;
 - 2) ensure the preservation of data in the case of a power failure;
 - 3) be protected against external, including electromagnetic, electrostatic and radio wave influences.
- (2) The connections of the electronic gambling table or gambling machine to other systems must not influence the randomness of game results.
- (3) The gambling machine used for organising a game of chance shall have a diagnostic system capable of checking its systems and their condition.
- (4) In the event that the diagnostic system identifies a fault in the organisation of a game possibly influencing the game result, calculation of turnover or recording of information by the electronic calculation or inspection system, the diagnostic system shall immediately enable the electronic calculation and inspection system to record the fault information of the gambling machine or of the software used for organising gambling, as well as the fault occurrence time, and stop the organisation of gambling on the gambling machine.
- (5) The diagnostic system must record and save the results and activities of the game for at least five last games.
- (6) Gambling machines used for organising games of chance may not make a onetime cash payout of more than €2,000.

Gambling machines on ships plying their trade on Estonian registered ship must ensure that their maximum stake is €10 and maximum win is €2,000.

6. Online Gambling

With the enactment of the Gambling Act 2009, Estonia became the latest EU country to update its gambling framework to specifically address the status of online gambling. The act regulates online gambling and other enabling services, such as transaction processing and internet service providers, for the first time under Estonian law. However, the online-gambling provisions are subject to transitional provisions and will not come into effect until January 1, 2010. Prior to the new gambling act, online gambling activities were undefined and unregulated. One of the objectives of the new act was to bridge this regulatory gap.

The unregulated nature of internet gambling permitted operators such as Triobet, Unibet and Pokerstars to offer online products in Estonia. In Triobet's case, the Maltese licensed company is the main sponsor of the Baltic League across the three Baltic States. Pokerstars has reportedly spent thousands of kroons on advertising during 2009 alone. These operators face the prospect of requiring a local licence or initiating a B2B or similar relationship with an Estonian licensee to stay legitimate in Estonia when the new legislation's online gambling provisions comes into effect in 2010.

It appears the first operator to consider offering online gambling under an Estonian 'distant gambling' licence is the terrestrial operator Olympic Entertainment Group. Olympic has announced a partnership with Playtech for the software provider to provide Olympic with platform solutions to enable Olympic to open online casinos. Another operator likely to become licensed is Spordiennustus (a joint venture Estonian Olympic Committee and Pafer A/S, part of the Paf group), which has offered sports betting, scratch cards, keno and bingo games on the Estonian market for a number of years. The company has used technology solutions provided by Finland's European Game & Entertainment Technology (EGET) which is also part of the Paf group of companies).

6.1 Statistics

Online gambling will become a regulated activity at the beginning of 2010.

When Spordiennustus began its online offerings in 2004 the company doubled its turnover within six months, with sales in the first month reaching over 1m kroons. The CEO of EGET, Lauri Gorski, the company which supplied Spordiennustus with the platform solution noted at the time that the dramatic increase in revenues:

"shows how a successful online gaming solution can be diversified, bringing in new revenue streams...sports betting and instant games are complementary, encouraging players to spend more time on the site and strengthening their relationship with the gaming operator."

6.2 Legislative Framework

Under the Gambling Act 2009, online gambling falls under the term 'distant gambling'. This term would also encompass telephone and broadcasting mediums. Distant gambling is defined in section 5 of the Act as:

"(1) Distant gambling shall be considered organising gambling in a way where the result of the game is determined by using an electronic device and where the player can participate using an electronic communications device, including telephone, Internet and broadcasting.

(2) Distant gambling shall not be considered accepting stakes by using an electronic communications device, informing of the results of the game or paying out the prize to a player."

The result of the definition of distant gambling means that a game is only considered a distant gambling game if the following two criteria are met:

1. The result is determined by an electronic device.
2. The player plays using an electronic communications device.

For example, if a casino-style games or virtual sports competition is organised online by a computer program, then it will be considered distant gambling. However, if sports competitions are held between real human players, the outcome of the Eurovision song contest or an election result - then these are considered under Estonian law to be classical gambling, not distant gambling.

The outcome of this conceptualization of distant gambling is that it excludes real-world betting. However, in practice, this distinction becomes irrelevant because if the betting involves a bank transfer, then the requirements on the organiser are the same as those for distant gambling organisers. This legislative-sleight-of-hand is achieved through the insertion of a section 52 in the Act which makes the specifications for organising distant gambling (apart from the server location requirement) apply to organisers of betting if monies are accepted by "means of communication".

The main online gambling provisions of the new act are found in sections 52-56.

6.3 Licensing

A national licensing regime is introduced for the first time for online gambling. Under the act, organisers of online gambling need to hold an activity licence and an operating permit/licence.

No limit is set on the number of online gambling licences to be made available.

The Act introduces differing levels of share capital and state fees to be paid depending on the type of gambling being organised. Since online gambling is not considered a form of gambling, but simply a means of organising a category (or subcategory) of gambling - online operators will be required to

meet the share capital and fee requirements corresponding to the type of gambling they are organising.

An online activity licence is valid for an unspecified term and is non-transferable, while an operating permit for online gambling is granted for a period of up to five years and is also non-transferable.

The new Act places the following obligation on online gambling operators:

- (1) In organising distant gambling, the organiser of gambling must ensure:
 - 1) measures that exclude minors from the opportunity to play pursuant to subsections [contained in the new act];
 - 2) registration of players by identifying the person, age and place of residence of the player;
 - 3) accounting of the stakes entered by each player and the prizes paid out to each player;
 - 4) paying out prizes only to the same current account from which the player has made a payment to stake;
 - 5) unimpeded access by supervision officials to the game equipment used to organise gambling.
- (2) In organising distant gambling, the organiser shall disclose to each player:
 - 1) the name, address and activity licence and operation licence decision numbers of the organiser of gambling;
 - 2) the rules of play or reference to an Internet page where the rules are available;
 - 3) a reference to the requirements deriving from section 34;
 - 4) to provide players a warning designed to direct their attention to the addictive nature of gambling and a reference to the contact information of organisations that provide help to gambling addicts;
 - 5) all costs related to making stakes or paying out prizes and paid by the player or deducted from his/her prize.
- (3) The information listed in subsection 1 (2)-(4) shall be stored for at least five years so that it can be submitted to the Tax and Customs Board, the police or Financial Intelligence Unit upon request.

6.4 Combating Illegal Online Gambling: Blocking Measures

As only forms of gambling conforming to the requirements of the new act can be lawfully organised, this would mean any online gambling not licensed locally by Estonian authorities is considered “illegal distant gambling”.

Combating illegal distant gambling and enforcing the new national licensing framework is addressed in at least three ways through the Gambling Act 2009:

- By targeting the organiser of the illegal gambling.
- By financial-transaction blocking.
- By Internet service provider (ISP) blocking.

Estonian authorities are given the power to target these three areas through section 56 of the new gambling act. Penal provisions may also apply (please see the criminal law section of this report).

The act provides the following under the heading ‘illegal distant gambling’:

- (1) Persons providing a public data network transmission service or public data transmission network access service are obliged to prevent access through communications devices to distant gambling without delay upon learning of the illegality of the aforementioned gambling.

(2) Persons intermediating payment are prohibited from transferring payments to organisers of distant gambling which does not conform to the requirements of the present Act upon learning of the illegality of the aforementioned gambling. Only payments may be transferred where the intermediating person is convinced that the payment is made for the purposes of a gambling stake.

Payments Blocking

Similar to the Unlawful Internet Gambling Enforcement Act (UIGEA) in the US, payment-processing providers are prohibited from transferring payments to organisers of online gambling that do not conform to the new act - that is, operators not licensed by Estonian authorities. Payment processors are required to block payments where they become aware that unlicensed or illegal online gambling is taking place.

The failure to block payments carries financial penalties for the payment-processing company of up to EEK40,000 (Gambling Act 2009, sections 92). (Payment processors have also become subject to Estonia's anti money laundering legislation enacted in 2008 and face the prospect of liability for failing to meet the provisions of that Act).

ISP Blocking

Internet service providers are obliged to immediately prevent access to illegal gambling sites once they learn that the website in question is operating without an Estonian licence - that is, operating illegally under Estonian law.

The failure to block access to illegal gambling websites carries financial penalties for the ISP of up to EEK40,000 (Gambling Act 2009, sections 92).

Blocking Measures Consultation 2009

The Gambling Act 2009 does not contain any delegating provisions specific to online gambling.

Payment processing and ISP blocking implementation will be established by precepts, which is a widely used administrative procedure in Estonia and will be applied on a case by case basis. The implementation of ISP/payment blocking resides with the Tax and Customs Board. The Board has held preliminary discussions with banks and ISPs on the issue of restricting access to illegal remote gambling.

The Estonian Banking Association and ISPs have voiced concerns about the implementation of the blocking measures. Banks have argued that they can block and close accounts however they cannot identify payments which should be blocked. ISPs have claimed they do not have the specific equipment they need to prevent access to illegal gambling sites.

A representative of the Estonian Banking Association told GamblingCompliance when contacted that they believe their concerns have been considered to some extent, with the government in possession of their response. And this being the case, the representative could not divulge any further information while a government response is outstanding.

6.5 Technical Standards

Server Requirements

It is a requirement under the Gambling Act 2009 that online gambling organisers' servers be located in Estonia. Although this does not apply to betting where the stakes from players are accepted or prizes are paid out via electronic means of communication. Section 52 reads:

Organising gambling as distant gambling

(1) The server together with the software used for organising distant gambling shall be located in Estonia and its possessor shall ensure unimpeded access to the server by a supervisory official.

(2) The provisions of the present subdivision, except for paragraph 1 of the present section, shall be applied to the organisation of pari-mutuel betting if stakes from players are accepted or prizes are paid out via means of communication.

Registration and Accounting Systems

Appropriate accounting systems and equipment also need to meet certain standards, with supervisory officials allowed unimpeded access to the game equipment. The act also places an obligation on organisers to ensure a registration system is in place that excludes minors and provides adequate player protection.

The two relevant sections read:

§ 54. Requirements for gaming equipment used for organising distant gambling

(1) The game equipment used to organise distant gambling must ensure with sufficient certainty that:

- 1) the gambling is random and the results may not be affected by the organiser of gambling or other person;
- 2) information having a major bearing on the gambling is preserved in the event of stoppage of play, irrespective of the reasons for the stoppage
- 3) stoppages, game results and changes made to the game system are recorded.

(2) With regard to the software used for organising distant gambling, the Tax and Customs Board may at any time demand an independent expert assessment on conformity of the gaming equipment to the requirements provided in paragraph 1 of the present section.

(3) The information listed in subsection 1 (2) and (3) shall be stored for at least five years so that it can be submitted to the Tax and Customs Board, the police or Financial Intelligence Unit upon request.

§ 55. Protection of players in distant gambling

(1) The player must have the opportunity to impose in his or her own regard, through a notice, reproducible in writing, dispatched to the organiser of gambling:

- 1) a maximum limit for single stakes entered for a certain period;
- 2) a maximum limit to the total stake amount entered within a certain period;
- 3) a temporary limit for each session of play for a certain period
- 4) a ban on participation in play for a period of six months to three years.

(2) In the event that the person wishes to increase the limits established to him/her by submitting a notice referred to in paragraph 1 of the present section, the organiser shall immediately implement such notice.

(3) The player can not withdraw from the notice referred to in paragraph 1 of the present section. Organisers are prohibited from accepting stakes from players that are in conflict with the restrictions set by the player.

(4) The player shall be continuously shown clear information on how long he or she has been playing and in what amount stakes have been entered, and prizes won.

As only forms of gambling conforming to the requirements of the new act can be lawfully organised, this would mean any online gambling not licensed locally by Estonian authorities could potentially be viewed as “illegal distant gambling”.

6.6 B2B and White Label Possibilities

The Act permits the possibility of B2B or white label deals, whereby for example an Estonian entity and a foreign gambling organiser or software provider collaborate. This is made possible through a section on *organisers of gambling and transferring activities aimed to organising gambling*. These provisions and the procedure to transfer activities are contained in Chapter 2, Section 8 of the Act. The following are the general elements of the procedure to follow:

1. The Act deems ‘an organiser of gambling’ (for example, ‘Estonian Company A’) to be a person whose activity is aimed at organising gambling.
2. An organiser of gambling can transfer the activity for organising gambling to another person with the written consent of the Tax and Customs Board (the board is required to decide to grant or not to grant consent within 14 days). For example, Estonian Company A transferring its activity to Company B.
3. Even though Estonian Company A in our example has transferred its activity to Company B, any liability cannot be transferred.
4. Furthermore, the transfer of activities aimed at organising gambling cannot obstruct the internal control by the organiser of gambling (that is, Estonian Company A), nor the possibility of the Tax and Customs Board to monitor the fulfilment of requirements set out by the gambling act for the organisation of gambling.
5. Some activities, termed ‘substantial activities’ can only be transferred if two conditions are met. A substantial activity is deemed to be an activity which, if missed or carried out incorrectly, would substantially endanger the conformity of the organiser of gambling (Estonian Company A) to the requirements of the gambling act, the financial results of the organiser or the gambling organised. A substantial activity can only be transferred if:
 - a. The liability of the organiser of gambling (Estonian Company A) to the players does not change;
 - b. The conditions on the basis of which the gambling licence was granted to the organiser of gambling (Estonian Company A) do not change or disappear.
6. The person that the activity aimed at organising gambling was transferred to (Company B) by following the above procedures is not considered an organiser of gambling.

Moreover, an organiser of gambling (Estonian Company A) may intermediate prizes gained from gambling organised by a foreign organiser of gambling (Foreign Gaming Company A). In this case the organiser of gambling (Estonian Company A), is deemed to be a mediator of prizes or stakes and the foreign organiser of gambling (Foreign Gaming Company A) is deemed to be the person that the activity aimed at organising gambling was transferred to – therefore Foreign Gaming Company A is not considered an organiser of gambling under the gambling act if the transferring procedures are followed correctly.

7. Betting

Compared to the prevalence of slot halls and casinos, betting holds a relatively minor share of the Estonian gambling market. The online bookmaker Spordiennustus was formed in 2004 as a joint venture between the Estonian Olympic Committee and Paf subsidiary, Pafer, to raise funds for national sports. However, perhaps indicating some level of interest in betting products, the headline sponsor of the Baltic football league is Triobet, a Malta licensed sportsbook which also offers a suite of online gambling games such as poker, casino and skill games.

7.1 Statistics

Estonia has licensed a small number of sports betting operators.

Spordiennustus achieved a turnover of 77.4m kroons during 2008, an 11.8 percent fall in turnover year-on-year. With 2008 being an Olympic year, the turnover was a lot lower than expected. The company blamed illegal competition from non-Estonian licensed operators. At the end of the reporting period for 2008, Spordiennustus had 26,814 sportsbook clients.

7.2 Legislative Framework

Estonian law uses the term `toto` to include both totalisator and betting.

Betting is defined as "games, the outcome of which depends on the prediction by the player of the occurrence or non-occurrence of an event, or on an outcome where the event or outcome with regard to which the player enters a stake is beyond the control of the organizer of the gambling and receiving the prize depends on whether the prediction comes true, the amount of the prize depends on the winning coefficient or the percentage of the stake pool determined by the organizer of gambling, the number of persons making the correct prediction and the sizes of the stakes (totalisator)".

Wagering operators are required to have share capital of at least €130,000.

7.3 Licensing

Betting operators (can be public or private limited companies) are required to hold an activity licence and an operating permit. While the activity licence is for an unspecified turn, operating permits are valid for 20 years.

In addition to the share capital requirement betting organisers pay fees of EEK500,000 for a review of an activity licence and EEK50,000 for a review of an operating permit.

8. Lotteries

Under the Gambling Act 2009, lotteries (apart from promotional lotteries) remain subject to a state monopoly.

The main state lottery is [Eesti Loto](#) which was formed under Soviet rule in 1971 and became a state-owned joint stock company in 1991 after Estonia regained independence. Eesti Loto provides a whole suite of lottery products including lotto, instant scratch lotteries, keno, bingo and the regional Viking Lotto. Eesti Loto contracted with GTECH in 1994 for GTECH to provide an online distribution solution. Online distribution was first offered in 1994, two years before Estonians could use internet banking.

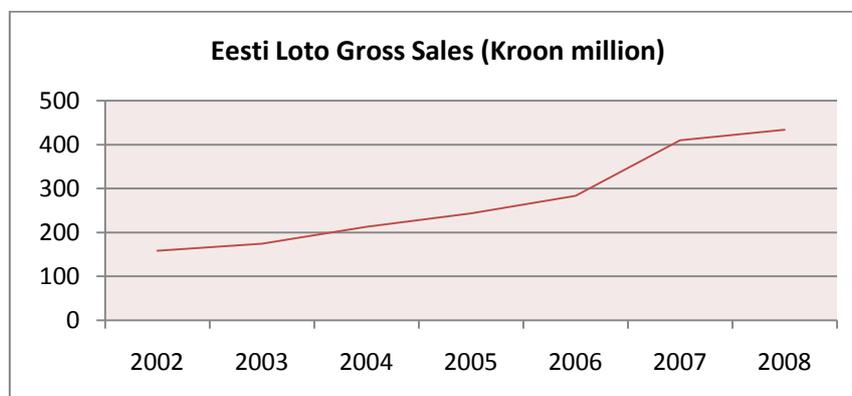
The CEO of Eesti Loto, Aivar Lepp, noted in April 2009 (Panorama No 30, April 2009) that "Eesti Loto is looking at launching internet-based games. However, the verdict is still open whether Eesti Loto, having the monopoly on lotteries, will be authorised to operate casino-type and skill games".

There has been discussion in Estonia of privatising Eesti Loto to raise funds. However, with the new gambling act coming into effect, the requirement for lottery providers to be a state-owned company, may provide legislative protection from this idea for the time being.

8.1 Statistics

Eesti Loto recorded gross sales of 434.1m kroons in 2008. For the first half of 2009 the lottery posted an increase in sales year-on-year of 31 percent.

Given the downturn in casino revenues, CEO, Aivar Lepp noted in April 2009 that: “until recently, casinos have been the most popular kind of gambling in Estonia, generating 8 to 9 times more revenues than lotteries. With the economic downturn, in one year already, casinos have become much less attractive while Eesti Loto has been steadily increasing its revenues”. Lepp noted further that with the legislative changes and the state of the economy, the lottery is hoping that it “will gain more equal representation in the national gaming market.



Numbers games continue to be the most popular of Eesti Loto’s products, accounting for over 80 percent of its games portfolio. The most popular game is Viking Lotto. Just over half (53 percent) of the lottery’s players are women.

8.2 Legislative Framework

Lotteries are defined as "games whose result is determined completely by chance, where the prize fund forms up to 80 percent of the sales price of the lottery ticket print run and results are revealed a maximum of three times a day or results are revealed upon uncovering a field on a lottery ticket".

Lotteries are divided into two sub-categories:

- Passive lotteries: "lotteries where the results depend completely on chance and where the results of the lottery are revealed after the lottery organizer ceases to allow participation in the lottery".
- Instant lotteries: "lotteries whose results are randomly determined on tickets before the lottery tickets are acquired by a player and whose result becomes known to the player upon uncovering the playing field after they acquire the lottery ticket".

The Act also allows for promotional or commercial lotteries. These types of lotteries are “classical or instant lottery organized by a trader for the purposes of the Trading Act for advancing the sales of goods or services, or for promoting goods, services or their providers”. Promotional lotteries are lotteries simply for the promotion of goods, with a prize fund not exceeding €100,000. Promotional lotteries with a prize fund below €10,000 are excluded from the scope of the Gambling Act. The requirements of a prize fund constituting up to 80 percent of the sales price of the lottery tickets, is not required for a promotional lottery. The organiser requirements are also waived.

Lotteries where the prize fund is up to €1,000 and commercial lotteries with a prize fund up to €10,000 are not considered gambling under the Act.

Lottery operators can only be organised by public, 100 percent state-owned companies with a share value of at least €1m. Commercial / promotional lotteries are exempted from this requirement.

Eesti Loto has historically had share capital of 3.5m kroons or close to €200,000 – the lottery will need to increase its share capital to €1m by 2015. This is because share capital requirements of existing operators issued with activity licences before the new gambling act came into effect have until January 1, 2015 to bring their share capital into conformity with the new Act.

8.3 Licensing

Only a state-owned company can hold a lottery licence, with the exception of commercial or promotional lotteries. State-owned lottery companies are required to pay a state fee of EEK10,000 for a review of an operating permit.

9. Poker Tournaments and other Tournaments of Chance

Tournaments of chance are regulated for the first time under the new act and are defined as "a competition where the participants compete in a game of chance, whereby all participants receive against participation fee equal positions at the starting point of the game of chance". This allows poker tournaments (poker is becoming an increasingly popular pastime in Estonia) to be organised in the country.

An operator already in possession of an activity licence for a game of chance has the right to organise a tournament of chance. If an operator seeks to hold a tournament of chance before carrying out a tournament of a game of chance, the organiser needs to submit a written notice to the Tax and Customs Board indicating the following information:

- Time and place of the tournament of a game of chance.
- What game of chance the participants in the tournament of a game of chance will participate in.
- Rules and the procedure for determining the winner of the tournament of a game of chance.
- Amount of the participation fee.
- Amount of the prize fund, or if a numerical indication is not possible, the rules for determining the prize fund.

10. Skill Games

Skill games are considered a form of gambling under the Act.

These games are defined as "games whose outcome depends predominantly on the physical skillfulness or skills and knowledge of the player, and that are organized by using a mechanical or electronic tool".

10.1 Legislative Framework

Skill game organisers can be public or private companies and need to have share capital of at least €25,000.

Skill game prizes must not exceed a value of €50 and needs to be an object, not cash. Moreover the prize cannot be exchanged for money (as Pashislot/Pashinko machines prizes are in Japan). Skill games can be organised remotely. Again the prize cannot be cash, exchangeable for cash, or a service and the value of the prize must not exceed €50.

Games of skill organisers must guarantee the following:

- 1) A player with better skills has better results than a player with no skills.
- 2) A player cannot win a considerable prize without actively being involved in the game.

- 3) A player that decides to play passively will not win or win an insignificant prize.

10.2 Licence Requirements

Skill game organisers are required to hold an activity licence and operating permit and pay fees of EEK50,000 for a review of an activity licence and EEK50,000 for a review of an operating permit.

11. Tax, Fees, Share Capital and Reporting Requirements

The new gambling act has allowed for e-reporting for the first time through the implementation of an electronic calculation and inspection system, due to come online in 2011. In addition to the new Gambling Act, Estonia has enacted a new gambling taxation act which came into force on June 1, 2009. During May 2009 the [government issued a regulation](#) pertaining to grants issued with funds received from gambling taxes and the [Finance Minister issued a decree](#) related to the forms of tax declarations.

11.1 Tax

Activity / Gambling Equipment	Tax Rate
Gambling tables	EEK20,000 per table per month
Gambling machines*	EEK7,000 per machine per month
Skill machines	EEK500 per machine per month
Online gambling (distant gambling)	5 percent of net revenues
Wagering and totalisator betting	5 percent of net revenues
Lottery ticket sales	18 percent
From the winning fund of a commercial lottery	18 percent
Games of chance tournaments	5 percent of participation fees

* if a gambling machine allows several players to participate, the tax is calculated based on the number of playing positions. That is, Tax = Tax rate x number of players.

With respect to the new form of gambling regulated – online gambling - the Estonian parliament when debating what tax rate to impose for online gambling opted for the relatively low rate of 5 percent. It was thought this rate would be competitive compared to other EU member states. The legislature presumed that the rate would attract foreign businesses to perform their business in Estonia and therefore choose to become licensed in the country as opposed to operate in a manner which would be deemed illegal under Estonian legislation.

11.2 Licence Fees And Share Capital Requirements

Activity	Share Capital Requirements	Licence Fees
Games of chance organisers	At least €1m	EEK750,000 for a review of an activity licence and EEK50,000 for a review of an operating permit

Lottery organisers (except promotional lotteries*)	At least €1m and state-owned	EEK10,000 for a review of an operating permit
Pari-mutuel betting and other betting organisers	At least €25,000	EEK50,000 for a review of an activity licence and EEK50,000 for a review of an operating permit
Games of skill organisers	At least €25,000	EEK50,000 for a review of an activity licence and EEK50,000 for a review of an operating permit

* Promotional lotteries are lotteries simply for the promotion of goods, with a prize fund not exceeding €100,000. Promotional lotteries with a prize fund below €10,000 are excluded from the scope of the gambling act.

11.3 Reporting Requirements

The Gambling Act 2009 requires gambling organisers to submit to the Tax and Customs Board a report on gambling every three months, the 'reporting period' (on the 15 January, 15 April, 15 July and 15 October). Organisers of a tournament of chance have an exemption from this requirement, however need to submit a report within a month after organising the tournament.

A further exemption applies to organisers who have connected an electronic calculation and inspection system to the Tax and Customs Board's information system (or if a commercial lottery was organised). The electronic calculation and inspection system provisions are subject to transitional provisions and will come into force on January 1, 2011. As such all operators except tournaments of chance operators will be required to submit reporting documents every three months, until the electronic control method is established.

On May 26, 2009 the Finance Ministry issued a decree ([No 34 of 2009](#)) pursuant to Section 4(4) of the Gambling Tax Act 2009 on the form of reporting declarations contained in Annex [1](#), [2](#), [3](#), [4](#), [5](#) and [6](#). The [Tax and Customs Board](#) has also [published a guide](#) to submitting reporting documents using an electronic format (XML – Extensible Markup Language).

The following are the reporting provisions contained in the Gambling Act.

Games of Chance Operator Reports

(1) An organiser of a game of chance shall submit during the reporting period a report on organising games of chance on machines, thereby indicating the following:

- 1) total amount of money or its substitutes (e.g. chips, cheques) inserted in the game of chance machine;
- 2) the total amount of prizes received by players in games of chance organised on gaming machines for a game of chance;
- 3) the amount of payments to players as a percentage of the total amount of all stakes in games of chance machines.

(2) The organiser of a game of chance shall submit during the reporting period a report on an additional game of chance, thereby indicating the following:

- 1) number of players playing the additional game of chance;
- 2) amounts included in the prize fund of the additional game of chance;
- 3) date and time of determining the prize of the additional game of chance, and the game of chance the playing of which brought along the additional prize if a relevant prize was won during the reporting period.

(3) An organiser of game of chance shall indicate the total amount of stakes accepted during the reporting period at gaming tables in cash and non-cash.

Tournament of Chance Operator Reports

The organiser of a game of chance tournament shall submit within a month after organising the game of chance tournament a report on organising the game of chance tournament to the Tax and Customs Board, thereby indicating the following:

- 1) time and place of the game of chance tournament;
- 2) number of participants, size of the participation fee and the total amount received as participation fees;
- 3) size of the prize fund and amounts paid out as prizes.

Betting Operator Reports

The organiser of pari-mutuel betting shall submit for the reporting period a report on every pari-mutuel betting, and in the event of several locations, a report for every location:

- 1) the total amount of stakes received from players;
- 2) number of players and number of betting organised;
- 3) total amount of prizes won by players;
- 4) amounts transferred by players to the bank account of the organiser of betting.

Lottery Operator Reports

(1) The organiser of a lottery shall submit a report for each classical lottery organised during the reporting period, thereby indicating the following:

- 1) the amount of prizes paid out;
- 2) the amount of stakes made by players.

(2) The organiser of a lottery shall submit a report for each instant lottery organised during the reporting period, thereby indicating the following:

- 1) the amount of prizes paid out;
- 2) amounts received from the sales of lottery tickets, thereby indicating if tickets were sold to agents at a lower price than the sales price;
- 3) the residual value of the prizes not won and the number of unsold tickets in the run of instant lottery tickets.

Online 'Distant' Gambling Operator Reports

The organiser of gambling having organised distant gambling shall submit a report where the following is indicated for every gambling category:

- 1) total amount of money and its substitutes received from players;
- 2) total amount of credits made in games;
- 3) total amount of prizes won in games;
- 4) number of games played;
- 5) amounts transferred by players to the bank account of the organiser of gambling.

Skill Game Operator Reports

The organiser of a game of skill shall submit a report on games of skill organised during the reporting period, thereby indicating the following:

- 1) number of mechanical or electronic means used for organising games of skill;
- 2) the total amount of stakes received from players.

11.4 Electronic Calculation and Inspection System

The electronic calculation and control system requirements do not come into effect until 2011. While the gambling act does not contain many delegating provisions, it does authorise the Finance Minister to establish, by regulation, necessary technical rules on how to connect the calculation and

control system of an operator with the Tax and Customs Board and a form for the annex of annual reports.

The Act contains the following provisions which will become effective from 2011.

(1) An electronic calculation and inspection system is an electronic communication network connecting gambling machines or additional games of chance for organising other gambling of the organiser of gambling with electronic game equipment or game equipment used for distant gambling. The gambling table must be connected with an electronic calculation and inspection system, where settlements or the game are partially made by using electronic devices.

(2) The electronic calculation and inspection system shall guarantee registration and recording of information in a way that enables calculation at any time by the organiser of gambling, as well as the percentages of payments made to players from the total amount of stakes for every gambling machine, gambling table connected to the system, and distant gambling game.

(3) The electronic calculation and inspection system shall record for every gambling machine:

- 1) total amount of money or its substitutes (e.g. chips, cheques) inserted in the gambling machine;
- 2) total amount of credits made in games;
- 3) total amount of prizes won in games;
- 4) number of games played;
- 5) date and time of cancellations occurring in the operation of the gambling machine within the last month;
- 6) date, time and person opening the body of the gambling machine;
- 7) amounts withdrawn and time of withdrawal from the gambling machine;

(4) The electronic calculation and inspection system shall record the following information on distant gambling:

- 1) total amount of money and its substitutes received from players;
- 2) total amount of credits made in games;
- 3) total amount of prizes won in games;
- 4) number of games played;
- 5) amounts transferred by players to bank accounts, and the time of transfer.

(5) The electronic calculation and inspection system must record for every additional game of chance:

- 1) number of players;
- 2) amounts directed by every game of chance to the prize fund of the additional game of chance;
- 3) date and time of determining the prize of the additional game of chance, and the game of chance the playing of which brought along the additional prize.

(6) The electronic calculation and inspection system must record for the gambling table connected with the system:

- 1) value of chips available on the gambling table upon opening and closing the gambling location, and information on the increase or decrease of the total value of chips during the opening time of the gambling location;
- 2) stakes received in cash or non-cash.

(7) For gaming tables not connected to the electronic calculation and inspection system, the information mentioned under subclause 6 of the present section shall be entered at least once within 24 hours.

(8) The information recorded by the electronic calculation and inspection system shall be stored for at least five years.

(9) The electronic calculation and inspection system must record in the log file the entering into the system as well as amending of the system, and the amender.

(10) The organiser of gambling must ensure a possibility to connect the calculation and inspection with the information system of the Tax and Customs Board by enabling access to all information in the system. The Minister of Finance may by a regulation establish technical requirements for the computer processing for the type of connection of the electronic calculation and inspection system with the information system of the Tax and Customs Board, as well as the conditions and the procedure of information exchange via the connection.

(11) The Tax and Customs Board may, with regard to the electronic calculation and inspection system, require submission of an independent expert assessment on the correspondence of the electronic calculation and inspection system with the requirements set out in the present section.

11.5 Estonian Council of Gambling Taxes

In May 2007 the [Council of Gambling Taxes](#) was formed to oversee the use of monies raised from gambling taxation. The council is made up of nine members, six of these are members of parliament and three are ministerial representatives. The current members are:

- Kaia Iva from parliament
- Tarmo Mänd from parliament
- Janar Holm from the Ministry of Education and Research
- Kalev Kotkas from parliament
- Lauri Luik from parliament
- Maret Merisaar from parliament
- Riho Rahuoja from the Ministry of Social Affairs
- Mailis Reps from parliament
- Siim Sukles from the Ministry of Culture

12. Advertising

A new advertising act came into force towards the end of 2008.

The Advertising Act 2008 contains a general prohibition on the advertising of gambling in Estonia, with limited exceptions. The new Advertising Act expands considerably on its predecessor's gambling provisions, including additional player protection measures and a provision that gambling advertising shouldn't contain a direct appeal to participate in gambling or lotteries. Where the former act simply listed two provisions relating to where the advertising of gambling can take place and the content of this advertising, the new act provides for new exceptions from the general prohibition of gambling advertising. However, these exceptions would not apply to any advertising of online gambling services which is not on the actual website of the organiser.

Advertising Act 2008, Section 21.

Advertising of gambling and lotteries

(1) Advertising of gambling, casinos and organisers of gambling (hereinafter advertising of gambling) is prohibited except:

- 1) on the premises where gambling is held;
- 2) on board a watercraft or aircraft used for international carriage of passengers;

- 3) in the building of a passenger terminal of an airport or port which provide international regular services;
 - 4) in a hotel where a casino is located;
 - 5) on the website of an organiser of gambling;
 - 6) at the place of sale of lottery tickets and in a programme broadcasting lotteries and immediately before and after the programme or in the middle of such broadcastings.
 - 7) during sports events staked in totalisators at the place where the event is held.
- (2) Gambling, casinos and organisers of gambling are deemed to be the same as within the meaning of the Gambling Act.
 - (3) Advertising of gambling shall not contain an appeal to participate in gambling or visit a casino or information which may suggest that gambling is in the public interest or contributes towards social success.
 - (4) A trade mark of an organiser of gambling which does not express gambling, a casino or a chance of winning in words or depict it in picture may be exhibited outside the places specified in subsection (1) of this section.
 - (5) The following shall not be deemed as advertising of gambling:
 - 1) Markings of a casino with the name of the undertaking, the trade mark, the type, name and opening hours of the casino on a building where the casino is located or at the entrance of the casino.
 - 2) Disclosure of information on the conditions of organisation of a lottery, winning tickets, winning combinations, prizes and the use of income received from the organisation of lotteries is not deemed to be advertising of lotteries.
 - (6) The provisions concerning advertising of gambling apply to advertising of activities carried out in casinos.

13. Problem Gambling

The notification message accompanying the Gambling Act 2009 to the European Commission, stated that gambling addiction (in people 15-74 years) has risen by 3 percent between 2004 and 2006 and that this increase was one of the justifications for the new act. Figures cited by a representative from the regulator during GamblingCompliance's technical compliance seminar (October 2008) suggest that the pathological gambling rate is 3.4 percent and the rate for those at risk of pathological gambling is 3 percent.

The [Institute for Problem Gambling and Treatment](#) is the country's main body for the research, treatment and prevention of problem gambling. According to the Institute, "150,000 people in Estonia consider themselves to be gamblers, 30,000 of them describe themselves as addicted to gambling – these are the results of a social research held in 2006".

13.1 Excluded Persons Database

The Gambling Act 2009 creates a database of excluded people. The Act provides that the excluded persons list is a "database the chief processor of which is the Tax and Customs Board. The database shall be founded and its statutes shall be established by a regulation of the Minister of Finance. Moreover the following is provided:

Persons shall be entered on the list on the basis of the person's written application, for a period of six months to three years. Submission of an application shall be considered to be the consent of the data subject to processing of personal data by the Tax and Customs Board and the organiser of a game of chance. Upon expiry of the aforementioned term, the person's data shall be erased from the list.

The application shall be submitted to the Tax and Customs Board or the organiser of gambling, who shall without delay submit it to the Tax and Customs Board. The following information on the person shall be entered in the list:

- *given and surname;*
- *personal ID code, or, if not present, date of birth;*
- *photo.*

The data entered on the list may be viewed by a supervision official and operating permit-holding organiser of games of chance for whom this is necessary for performing their working duties, or the person him/herself with regard to his/her personal data. Organisers of a game of chance are prohibited from processing the data on the list for the purposes of consumer preference studies or direct marketing, or to transfer the data to third persons.

The applications for entry on the list shall not have retroactive force.

The organiser of games of chance shall establish a system of measures which ensures that persons entered on the list are not permitted to play games of chance.

14. Money Laundering

Estonia is a member of MONEYVAL, an associate body of the FATF. As such, Estonia has undergone a [First](#), [Second](#) and [Third](#) (full [third round report](#)) evaluation reports of its anti-money laundering framework.

Estonia's FIU is the [Central Criminal Police Financial Intelligence Unit](#). Estonia's AML framework contains the following instruments:

- [Money laundering and Terrorist Financing Prevention Act 2008](#)
- [Electronic Money Institutions Act](#)
- [International Sanctions Act](#)
- [Format for notification to be forwarded to the Financial Intelligence Unit and instructions for preparation thereof](#) - Regulation No 12 of the Minister of the Interior, January 2008
- [Procedure for the registration and processing of data collected by the Financial Intelligence Unit](#) - Regulation No 13 of the Minister of the Interior January 2008
- [Requirements for the Rules of Procedure established by credit and financial institutions and for their implementation and verification of](#) compliance - Regulation No 10 of the Minister of Finance April 2008
- [Criteria of low risk of money laundering and terrorist financing which allows the application of simplified customer due diligence measures](#) - Regulation No 11 of the Minister of Finance April 2008

Estonia enacted new AML legislation during late 2007, following a review of the country's AML framework. The [Money Laundering and Terrorist Financing Prevention Act of 2008](#) (the AML Act) repealed Estonia's [previous AML law](#). One of the goals of the new legislation was to harmonise Estonia's legislative framework with the requirements of the EU's Third AML Directive.

Section 3(3) of the AML Act applies the act to “organisers of games of chance”. Games of chance organisers’ due diligence requirements become effective when a person pays or receives in a single transaction an amount the equivalent of 30,000 kroons (approximately €1,900) (section 16(1)). The previous act had a due diligence threshold of 15,000 kroons.

Importantly, with internet gambling regulations coming into force in January 2010, the AML Act applies to “providers of payment services” (section 6(1)(3)).

Chapter 7 of the AML lists the liability attached to failing to comply with the act. For example, companies face a fine of 500,000 kroons for failing the identification requirements; registering and preserving data; reporting suspicious transactions and payment services obligations.

Contained in MONEYVAL’s third round evaluation of Estonia, the report noted that a shortcoming of the new AML Act was “that casinos are only required to identify but not verify the name of a client who pays or receives in a single transaction or several transactions an amount exceeding 30,000 kroons (€1,917.34) or the equivalent in another currency”. With the enactment of Estonia’s Gambling Act 2009, these criticisms may be alleviated with the KYC requirements contained in it.

14.1 Know Your Customer Under the Gambling Act 2009

The following KYC requirements are contained in the new act for gambling locations:

- The organiser of a game of chance is obliged to identify the persons entering the location of a game of chance. For identifying the persons the following information shall be recorded:
 - Given and surname;
 - Personal ID code, or if this is not present, date of birth;
 - Title and serial number of the ID, date and place of its issue;
 - Time and date of arrival to the location of the game of chance.
- For the registration of information in clauses [above] the person wishing to enter the location of game of chance shall present an ID. The page of the ID with personal information shall be photocopied, and the information listed in section 8 filed in an electronic database.
- Upon the next entering of the location of a game of chance by the same person the organiser of gambling shall check the information on the person in the database for persons visiting the location of the game of chance on the basis of an ID, and record the time and date of arrival of the person in the casino in the database.
- The information may be viewed, copies of it received or inquiries made by using a data security method agreed on with the organiser of the game of chance only by:
 - A supervisory body upon carrying out state supervision;
 - A court during a procedure;
 - An institution carrying out criminal investigation;
 - The Tax and Customs Board in connection with the procedure of a tax case;
 - The Financial Intelligence Unit;
 - The Security Police Board within a procedure for access permit to a state secret;
 - A person on his/her personal data, including access to information.
- The data on access to information mentioned under subclause 11 (7) of the present section are:
 - Information on the data recipient (information of the authority and the person receiving information);
 - Reference to data the access was enabled to;
 - Type of access to data;
 - Legal basis for the access to data and the time of issuance of data.

- Information entered in the database on a person shall be stored for at least 5 years starting from the last visit to the location of the game of chance by the person.

15. Criminal Law

Penal provisions apply to those organisers who fall foul of the new Estonian gambling regime.

For gambling games which the Gambling Act does not provide the possibility to play or organise - organisers of these illegal games face detention or a fine up to 200 penalty units if they are a natural person, or if the organiser is a corporate entity, the organiser faces fines of up to EEK40,000. Currently one penalty unit is EEK60.

However, if the gambling game is provided for under the Gambling Act (such as online gambling), but the organiser does not have a licence(s), then Estonia's Penal Code will apply. Section 372 of the Penal Code provides for a fine of up to 300 penalty units or detention for unlicensed gambling. In case of a corporate body, a fine of up to EEK500,000. If the offence is repeated the person faces up to 3 years of imprisonment, for corporate body it faces pecuniary punishment.

16. Main Legislation

- [Gambling Act 2009](#)
- [Gambling Tax Act](#)
- [Money Laundering and Terrorist Financing Prevention Act 2008](#)

17. Regulator Details

[Ministry of Finance](#) through the aegis of the [Tax and Customs Board](#).

Ministry of Finance

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18. Industry Body / Members / Problem Gambling Institute

[Institute for Problem Gambling and Treatment](#)

[Estonian Gambling Operator Association \(EGOA\)](#)

[Members](#) of the EGOA are listed below:

- [Ballys Casino](#)
- [Citycasino](#)
- [Casino Grand Prix](#)
- [Casino Mapau](#)
- [Casino Play - IN](#)
- [Casino Sfinks](#)
- Eldorado
- [Olympic Casino](#)
- [Casino Videomat](#)
- [Admiral Kasiino](#)
- Cleopatra Casino

19. Endnotes

This report has been written based on primary source information obtained from regulatory and ministerial officials in Estonia, the assistance of an Estonian based lawyer, legal translations of the relevant legislation and investor information from Estonian based companies. Secondary source have included previous GamblingCompliance articles, local media reports and legal publications.

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