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## **Amendment to the Betting and Gaming Act, the Betting and Gaming Tax Act and several other acts in connection with organising remote games of chance**

We Willem-Alexander, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, etc. etc. etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is desirable to come to an arrangement for organising remote games of chance;

We, therefore, having heard the Advisory Division of the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

### **ARTICLE I**

The **Betting and Gaming Act** is amended as follows:

#### **A**

Article 1 is amended as follows:

1. In the first paragraph, under (b), “provide resources for this purpose” is inserted after “promote”.
2. The following two paragraphs are added:
3. Further rules may be laid down by order of Our Minister of Security and Justice with regard to providing the opportunity as referred to in the first paragraph, under (a).
4. The prohibition referred to in the first paragraph, under (c), does not apply to the officials and persons referred to in Article 34(1) in the lawful exercise of the powers referred to in Article 34c.

#### **B**

In Article 1a(1), “and poker” is added after “pyramid scheme”.

#### **C**

Article 5 will read as follows:

#### **Article 5**

1. A licence as referred to in Article 3 may be granted subject to a restriction connected with the nature of the games of chance to be organised. Conditions may be attached to a licence as referred to in Articles 3 and 4. The restrictions and conditions may be changed.
2. In any case, a licence may be withdrawn if a condition attached to the licence or a restriction under which the licence was granted, has been violated.
3. By or pursuant to a General Administrative Order, further rules may be laid down with regard to the granting and withdrawal of a licence as referred to in Article 3 and rules may be laid down with regard to the manner in which and the means with which winners are designated during occasions for which a licence was granted pursuant to Articles 3 and 4.

#### **D**

Article 6 will read as follows

#### **Article 6**

In accordance with rules laid down by Our Minister of Security and Justice, a fee is charged for the processing of an application for a licence as referred to in Articles 3, 4, 9, 14b, 16, 24, 27b and 27h. If this fee is not paid, the application will not be handled. Article 4:5(4) of the General Administrative Law Act does not apply.

#### **E**

The following article is inserted after Article 6:

**Article 6a**

1. The holder of a licence as referred to in Articles 3, 4, 9, 14b, 16, 24, 27b and 27h owes Our Minister of Security and Justice a one-off or periodic amount in accordance with rules laid down by order of Our Minister of Security and Justice with regard to the use of this licence.
2. The amount referred to in the first paragraph may be collected by writ of execution.
3. By or pursuant to a General Administrative Order, rules may be laid down with regard to the collection of this amount.

**F**

Article 27j is amended as follows:

1. The first paragraph will read as follows:

1. Without prejudice to the provisions laid down by or pursuant to Article 4a, the holder of a licence for organising a casino will refuse access to the gaming casino to any person:
  - a. who has not yet reached the age of eighteen;
  - b. whose details have been included in the register referred to in Article 33h;
  - c. whom he should reasonably expect to cause damage to himself or to others due to excessive participation in games of chance or due to gambling addiction.

2. The following paragraph is added:

3. By or pursuant to a General Administrative Order, further rules may be laid down with respect to the first paragraph.

**G**

The following article is inserted after Article 27j:

**Article 27ja**

1. Without prejudice to the provisions laid down by or pursuant to Article 4a, the holder of a licence for organising a gaming casino will systematically register and analyse data with respect to a player's gaming behaviour. In doing so, he may process special personal data insofar as this is necessary in order to prevent excessive participation in games of chance or gambling addiction.
2. In case of a reasonable suspicion of excessive participation in games of chance or gambling addiction, the licence holder will assess the player's behaviour during a personal . interview with this player.
3. The licence holder who, after the assessment referred to in the second paragraph, should reasonably suspect that the player may cause damage to himself or to others due to excessive participation in games of chance or due to gambling addiction , will recommend that this player be temporarily excluded from participating in games of chance organised in gaming casinos as referred to in Article 27g(2), in establishments as referred to in Article 30c(1), under (b), and remote games of chance as referred to in Article 31, by means of a registration in the register referred to in Article 33h.
4. The licence holder will notify the board referred to in Article 33a if the player referred to in the third paragraph fails to register in the register referred to in that paragraph. In doing so, he may use the citizen service number referred to in Article 1, under (b), of the Citizen Service Number (General Provisions) Act.
5. By or pursuant to a General Administrative Order, further rules are laid down with regard to the preceding paragraphs. In any case, these relate to:
  - a. the registration and analysis referred to in the first paragraph;

- b. the processing of personal data, the guarantees for lawful processing of personal data and the citizen service number, the appropriate technical and organisational measures to protect personal data and the citizen service number against any loss or unlawful processing and the supervision thereof;
- c. the assessment and the recommendation referred to in the second and third paragraphs;
- d. the notification referred to in the fourth paragraph, and the data to be provided by the licence holder.

## H

Article 30i is amended as follows:

1. In the second paragraph, under (a), “and the collection of these costs related to this supervision” is added after “the provisions laid down by or pursuant to this Title”.
2. The following paragraph is added:
3. The costs referred to in the second paragraph, under (a), may be collected by writ of execution.

## I

The following two sentences are added to Article 30o(4): In doing so, rules may be laid down with regard to the collection of these costs. These costs may be collected by writ of execution.

## J

The heading of Title VA, paragraph 5, will read as follows:

### **§ 5. Other mandatory and prohibitory provisions**

## K

Article 30u is amended as follows:

1. The first paragraph will read as follows:
  1. Without prejudice to the provisions laid down by or pursuant to Article 4a, the holder of a licence for having one or more gaming machines present in an establishment as referred to in Article 30c(1), under (b), will refuse access to this establishment to any person:
    - a. who has not yet reached the age of eighteen;
    - b. whose details have been included in the register referred to in Article 33h;
    - c. whom he should reasonably expect to cause damage to himself or to others due to excessive participation in games of chance or due to gambling addiction.
  2. In the third paragraph, “By General Administrative Order” is replaced by “By or pursuant to a General Administrative Order”, and “operator” is replaced by “licence holder”.

## L

The following article is inserted after Article 30u:

### **Article 30v**

1. Without prejudice to the provisions laid down by or pursuant to Article 4a, the holder of a licence for having one or more gaming machines present in an establishment as referred to in Article 30c(1), under (b), will systematically register and analyse data with respect to a player's gaming behaviour. In doing so, he may process special personal data insofar as this is necessary in order to prevent excessive participation in games of chance or gambling addiction.
2. In case of a reasonable suspicion of excessive participation in games of chance or gambling addiction, the licence holder will assess the player's behaviour during a personal interview with this player.

3. The licence holder who, after the assessment referred to in the second paragraph, should reasonably suspect that the player may cause damage to himself or to others due to excessive participation in games of chance or due to gambling addiction, will recommend that this player be temporarily excluded from participating in games of chance organised in gaming casinos as referred to in Article 27g(2), in establishments as referred to in Article 30c(1), under (b), and remote games of chance as referred to in Article 31, by means of a registration in the register referred to in Article 33h.

4. The licence holder will notify the board referred to in Article 33a if the player referred to in the third paragraph fails to register in the register referred to in that paragraph. In doing so, he may use the citizen service number referred to in Article 1, under (b), of the Citizen Service Number (General Provisions) Act.

5. By or pursuant to a General Administrative Order, further rules are laid down with regard to the preceding paragraphs. In any case, these relate to:

- a. the registration and analysis referred to in the first paragraph;
- b. the processing of personal data, the guarantees for lawful processing of personal data and the citizen service number, the appropriate technical and organisational measures to protect personal data and the citizen service number against loss or unlawful processing and the supervision thereof;
- c. the assessment and the recommendation referred to in the second and third paragraphs;
- d. the notification referred to in the fourth paragraph, and the data to be provided by the licence holder.

M

The following Title is inserted after Article 30aa:

## **TITLE Vb. REMOTE GAMES OF CHANCE**

### **Part 1. Introductory provisions**

#### **Article 31 (general)**

1. A remote game of chance is understood to be: an opportunity as referred to in Article(1), under (a), which is provided at a distance using electronic means of communication and in which a person participates without having any physical contact with the person providing this opportunity or providing space and resources for participating in these games of chance.
2. A licence for organising remote games of chance, other than offering betting slips in the games of chance - designated by or pursuant to a General Administrative Order - for which a licence was granted under a title other than this title, may only be granted in accordance with the provisions of this title.
3. By or pursuant to a General Administrative Order, further rules may be laid down with respect to the first paragraph.

### **Part 2. The licence for organising remote games of chance**

#### **Article 31a (restrictions, conditions, period of validity, transferability)**

1. The board referred to in Article 33a may grant a licence for organising remote games of chance.
2. The licence for organising remote games of chance is granted for a definite period of time.
3. The licence for organising remote games of chance may be granted under a restriction connected with the nature of the games of chance to be organised. Conditions may be attached to the licence in the interest of a sound, reliable and verifiable organisation of these games of

chance. The restrictions and conditions may be changed.

4. By or pursuant to a General Administrative Order, rules are laid down with regard to the licence for organising remote games of chance. In any case, these rules relate to:
  - a. the games of chance that may be organised under a licence for organising remote games of chance, whereby the rules and other features of these games may be given;
  - b. the period of validity of the licence;
  - c. the restrictions under which the licence may be granted, and
  - d. the transfer of the licence.

#### **Article 31b (decision period)**

By or pursuant to a General Administrative Order, rules are laid down with regard to the period within which a decision is made on the application for the licence for organising remote games of chance, and rules may be laid down with regard to the filing and processing of the application.

#### **Article 31c (refusal)**

1. In any case, the application for the granting and changing of a licence for organising remote games of chance is rejected if it is insufficiently guaranteed:
  - a. that the applicant and his company will meet the provisions laid down by or pursuant to this act;
  - b. that the remote games of chance will be organised in accordance with the provisions laid down by or pursuant to this act, the Anti-Money Laundering and Anti-Terrorist Financing Act and the Sanctions Act 1977;
  - c. that the supervision of compliance with and enforcement of this act, the Anti-Money Laundering and Anti-Terrorist Financing Act and the Sanctions Act 1977 can be carried out efficiently and effectively.
2. By or pursuant to a General Administrative Order, further rules are laid down with regard to the application of the first paragraph and further rules may be laid down with respect to the other grounds on which the application may be rejected.

#### **Article 31d (withdrawal and suspension)**

1. In any case, the licence for organising remote games of chance may be withdrawn, if:
  - a. the data provided for the purpose of obtaining the licence proved to be incorrect or incomplete to such an extent that a different decision would have been made on the application if the correct and complete data would have been known when assessing the application;
  - b. the rules laid down by or pursuant to this act, the Anti-Money Laundering and Anti-Terrorist Financing Act, the Sanctions Act 1977 and the Betting and Gaming Tax Act are not or no longer complied with;
  - c. a condition attached to the licence or a restriction under which the licence was granted has been violated;
  - d. insufficient cooperation has been rendered in the supervision of compliance with and enforcement of the provisions laid down by or pursuant to this act, the Money Laundering and Terrorist Financing (Prevention) Act, the Sanctions Act 1977 and the Betting and Gaming Tax Act.
2. The licence for organising remote games of chance may be suspended based on serious suspicions that there is a reason to withdraw the licence.
3. By or pursuant to a General Administrative Order, further rules are laid down with regard to the suspension of the application and further rules may be laid down with respect to the withdrawal of the licence.

### **Article 31e (processing charges)**

In accordance with rules laid down by Our Minister of Security and Justice, a fee is charged for the processing of an application for a licence for organising remote games of chance. If this fee is not paid, the application will not be handled. Article 4:5(4) of the General Administrative Law Act does not apply.

### **Article 31f (exploitation fee)**

1. The holder of a licence for organising remote games of chance owes Our Minister of Security and Justice a one-off or periodic payment in accordance with rules laid down by order of Our Minister of Security and Justice with regard to the use of this licence.
2. The amount referred to in the first paragraph may be collected by writ of execution.
3. By or pursuant to a General Administrative Order, rules may be laid down with regard to the collection of this amount.

### **Article 31g (contribution to charities)**

The holder of a licence for organising remote games of chance will make, in accordance with rules laid down by order of Our Minister of Security and Justice, a periodic contribution to the costs of one or more public benefit organisations active in the area of sports, culture, social welfare or public health.

## **Part 3. The holder of a licence for organising remote games of chance**

### **Article 31h (legal form, transparency, soundness)**

1. The holder of a licence for organising remote games of chance will have its registered office, its management board or its principal establishment in:
  - a. a state that is party to the Treaty on the Functioning of the European Union or the Agreement on the European Economic Area, or
  - b. a state to be designated by Our Minister of Security and Justice where supervision is carried out over this licence holder which offers sufficient guarantees with respect to the interests this act seeks to protect.
2. The licence holder has the legal form of a public limited company, a private limited liability company, the equivalent thereof under the law of another state as referred to in the first paragraph, a European company, or a legal form designated by order of Our Minister of Security and Justice under the law of a state as referred to in the first paragraph, under (b).
3. The licence holder is not affiliated with persons in a formal or actual control structure that, under the law of another state that applies to these persons or due to the obscurity of this structure, could affect the efficient and effective supervision of compliance with the provisions laid down by or pursuant to this act, the Money Laundering and Terrorist Financing (Protection) Act or the Sanctions Act 1977.
4. The continuity of the licence holder is reasonably guaranteed.
5. By or pursuant to a General Administrative Order, further rules may be laid down with regard to the licence holder. In any case, these rules relate to the designation of states as referred to in the first paragraph, under (b), and the continuity referred to in the fourth paragraph.

### **Article 31i (operational management)**

1. The holder of a licence for organising remote games of chance will set up its operational management such that a sound, reliable and verifiable organisation of the remote games of chance, as well as the supervision of compliance with and enforcement of the provisions laid

down by or pursuant to this act, the Anti-Money Laundering and Anti-Terrorist Financing Act and the Sanctions Act 1977 are guaranteed.

2. For this purpose, the licence holder will, in any case, use appropriate means, processes and procedures that:

a. meet the technical and operational requirements set by or pursuant to a General Administrative Order and relating to the safety, confidentiality, honesty, continuity, reliability, verifiability and suitability of the operational management, and

b. have been inspected by an institution accredited by the Dutch Accreditation Council or by another national accreditation body as referred to in Article 4 of Regulation 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93 (OJEU L 21).

3. In any case, the licence holder will, on a direction issued for this purpose by the board referred to in Article 33a and within the period set in this direction, have all or part of the means, processes and procedures subject to an inspection by an institution as referred to in the second paragraph, under (b).

4. The licence holder will appoint one or more officers who are experts on the matter and who are responsible and available within its organisation for the implementation of and internal supervision of compliance with provisions set by or pursuant to this act.

5. By or pursuant to a General Administrative Order, further rules are laid down with regard to the operational management of the licence holder and the inspection of the means, processes and procedures. In any case, rules are laid down with regard to:

a. the cases in which the licence holder will have all or part of the means, processes and procedures referred to in the second paragraph subject to an inspection;

b. the cases in which the second paragraph, under (b), temporarily does not apply;

c. outsourcing operational parts to third parties;

d. performing activities other than the games of chance organised under the licence, and

e. the accounts of the games of chance organised under the licence.

#### **Article 31j (reliability)**

1. The reliability of the holder of the licence for organising remote games of chance and of the persons wholly or partly determining its policy is beyond any doubt.

2. The licence holder pursues an adequate policy that aims to guarantee the reliability of managers, of persons in key positions and of persons who come into contact with players when organising the remote games of chance.

3. In any case, the reliability of the licence holder and of the persons wholly or partly determining its policy will not be beyond any doubt in the case and under the conditions referred to in Article 3 of the Public Administration (Probity Screening) Act.

4. Before the application for the granting of a licence for organising remote games of chance is rejected or such licence is suspended or withdrawn, the Public Administration Probity Screening Agency referred to in Article 8 of the Public Administration (Probity Screening) Act may be asked for advice as referred to in Article 9 of this act.

5. By or pursuant to a General Administrative Order, further rules are laid down with respect to the first and second paragraphs. In any case, these rules relate to the manner in which the reliability of the licence holder and a person as referred to in the first paragraph is determined and which facts and circumstances are included in this.

#### **Article 31k (expertise)**

1. The policy of the holder of the licence for organising remote games of chance is determined by persons who are experts in connection with the sound, reliable and verifiable organisation of remote games of chance.



2. The licence holder will ensure that managers, staff in key positions and staff who come into contact with players through organising games of chance are suitably qualified.
3. By or pursuant to a General Administrative Order, further rules may be laid down with respect to the first and second paragraphs.

#### **Part 4. Organising remote games of chance**

##### **Article 31l (registration and login as a player)**

1. The holder of a licence for organising remote games of chance will not offer any remote games of chance to a person who is not registered with the licence holder and logged into its gaming environment as a player.
2. The licence holder will only register a person as a player after the identity of this person has been established and it has been established that:
  - a. this person is 18 years of age or older;
  - b. this person is not listed in the register referred to in Article 33h, and
  - c. this person has set limits to his gaming behaviour.
3. The licence holder will not allow the login of a person whom he should reasonably expect to cause damage to himself or to others due to excessive participation in games of chance or due to gambling addiction.
4. By or pursuant to a General Administrative Order, further rules are laid down with regard to the registration and login as a player. In any case, rules are laid down with regard to:
  - a. establishing the identity referred to in the second paragraph;
  - b. the limits of the gaming behaviour referred to in the second paragraph;
  - c. the other conditions for registration as a player;
  - d. the suspension of the registration as a player, and
  - e. the termination of the registration as a player.

##### **Article 31m (payments)**

1. Payments between the holder of a licence for organising remote games of chance and the player will be made in accordance with rules laid down by or pursuant to a General Administrative Order.
2. The licence holder will provide appropriate guarantees for:
  - a. the safe processing of the payments referred to in the first paragraph, and
  - b. the separation between the credit balances of the players and other capital or the insurance of these credit balances, and
  - c. the payment of the credit balances to the players.
3. For the implementation of the second paragraph, under (b), the licence holder may hold one or more special accounts with a financial undertaking that is allowed to conduct the business of a bank in the Netherlands under the Financial Supervision Act, which accounts are only intended for money it retains as such in connection with its activities for the purpose of players. In that case, Article 19, first paragraph, second and third sentence, second and third paragraph, fourth paragraph, second and third sentence, fifth, sixth and eighth paragraph, of the Bailiffs Act applies mutatis mutandis, on the understanding that:
  - a. “bailiff” each time refers to “licence holder”, and
  - b. “third parties” each time refers to “players”.
4. By or pursuant to a General Administrative Order, further rules are laid down with respect to the second and third paragraphs.

##### **Article 31n (prevention)**

1. Without prejudice to the provisions laid down by or pursuant to Article 4a, the holder of a

licence for organising remote games of chance will systematically register and analyse data with respect to a player's gaming behaviour. In doing so, he may process special personal data insofar as this is necessary in order to prevent excessive participation in games of chance or gambling addiction.

2. In case of a reasonable suspicion of excessive participation in games of chance or gambling addiction, the licence holder will assess the player's behaviour during a personal interview with this player.

3. The licence holder who, after the assessment referred to in the second paragraph, should reasonably suspect that the player may cause damage to himself or to others due to excessive participation in games of chance or due to gambling addiction, , will recommend that this player be temporarily excluded from participating in games of chance organised in gaming casinos as referred to in Article 27g(2), in establishments as referred to in Article 30c(1), under (b), and remote games of chance as referred to in Article 31, by means of a registration in the register referred to in Article 33h.

4. The licence holder will notify the board referred to in Article 33a if the player referred to in the third paragraph fails to register in the register referred to in that paragraph. In doing so, he may use the citizen service number referred to in Article 1, under (b), of the Citizen Service Number (General Provisions) Act.

5. By or pursuant to a General Administrative Order, further rules are laid down with regard to the preceding paragraphs. In any case, these relate to:

- a. the registration and analysis referred to in the first paragraph;
- b. the processing of personal data, the guarantees for lawful processing of personal data and the citizen service number, the appropriate technical and organisational measures to protect personal data and the citizen service number against loss or unlawful processing and the supervision thereof;
- c. the assessment and the recommendation referred to in the second and third paragraphs;
- d. the notification referred to in the fourth paragraph, and the data to be provided by the licence holder.

#### **Article 31o (general delegation basis)**

By or pursuant to a General Administrative Order, further rules may be laid down with regard to organising remote games of chance.

N

Article 33b is amended as follows:

1. The word “providing” is replaced by “granting”.
2. The word “suspending” is added after “changing”.
3. The following is inserted after “model permits for gaming machines,”: the management of the register referred to in Article 33h.

O

The following article is inserted after Article 33d:

#### **Article 33da (exclusion from participation in games of chance)**

1. The board referred to in Article 33a may exclude a person, in case of a reasonable suspicion that this person may cause damage to himself or to others due to excessive participation in games of chance or due to gambling addiction, from participating in games of chance organised in gaming casinos as referred to in Article 27g(2), in establishments as referred to in Article 30c(1), under (b), and remote games of chance as referred to in Article 31, by means of a registration in the register referred to in Article 33h, for the duration of six months.

2. Upon request, the holder of a licence for organising a gaming casino, the holder of a licence for having one or more gaming machines present in an establishment as referred to in Article 30c(1), under (b), and the holder of a licence for organising remote games of chance will provide the board with the data and documents the board requires for the purposes of the first paragraph.

3. By or pursuant to a General Administrative Order, further rules may be laid down with respect to the first paragraph.

## P

Article 33e is amended as follows:

1. The first paragraph will read as follows:

1. Under the name of levy on games of chance, the games of chance authority imposes a purpose levy:

a. in order to cover and amounting to no more than the estimated costs incurred by the games of chance authority in one calendar year with respect to the performance of the tasks referred to in Article 33b, and

b. amounting to an amount determined by order of Our Minister of Security and Justice after consultation with Our Minister of Health, Welfare and Sport as a contribution to cover the costs of anonymous treatment of gambling addiction and of research into gambling addiction.

2. The second paragraph is amended as follows:

1. The full stop at the end of subparagraph (a) is replaced by a semicolon.

2. The following subparagraph is added to the second paragraph and the full stop at the end of subparagraph (b) is replaced by a semicolon:

c. the person who is granted a licence under Article 31, the following being held as a basis:

1<sup>o</sup>. the difference between the stakes received and the prizes awarded;

2<sup>o</sup>. the revenues other than the stakes for giving the opportunity to participate in the games of chance.

## Q

Article 33f is amended as follows:

1. The semicolon at the end of the second paragraph, under (d), is replaced by a full stop.

2. The third up to and including the ninth paragraphs become the fourth up to and including the tenth paragraphs.

3. The following paragraph is inserted after the second paragraph:

4. The rate of the levy referred to in Article 33e(2), under (c), subsections 1<sup>o</sup> and 2<sup>o</sup>, amounts to 1.5% and 1.5% of the basis respectively.

5. In the fifth paragraph (new), “third paragraph” is replaced by “fourth paragraph”.

6. In the fifth paragraph (new), “sixth paragraph” is replaced by “seventh paragraph”.

6. In the tenth paragraph (new), the following is inserted after “amounts”: and the percentages referred to in the third paragraph.

## R

Article 33g(1) is amended as follows:

1. In the opening words, “health data” is inserted after “criminal record”.

2. The following subparagraph is added to the first paragraph and the full stop at the end of subparagraph (c) is replaced by “, or”:

d. administrative cooperation with other bodies in accordance with Article 34m.

## S

The following article is inserted after Article 33g:

### **Article 33h (central register)**

1. The board referred to in Article 33a keeps a register of persons who, under Articles 27j(2), 30u(2) or 31n(1) have been temporarily excluded from participating in games of chance organised in an establishment as referred to in Article 30c(1), under (b), in a gaming casino as referred to in Article 27g(2), and remote games of chance as referred to in Article 31(1).
2. The purpose of the register is to prevent participation in games of chance as referred to in the first paragraph by persons:
  - a. who temporarily do not want to participate in games of chance as referred to in the first paragraph, or
  - b. who may reasonably be assumed to cause damage to themselves or to others due to excessive participation in games of chance or due to a gambling addiction.
3. The register contains data with respect to:
  - a. the persons included in the register;
  - b. the period of exclusion from participation as referred to in the first paragraph;
  - c. the reasons underlying the registration;
  - d. the origin of the data included in the register.
4. Data from the register are only provided to:
  - a. the holders of a licence for organising games of chance as referred to in the first paragraph, insofar as it merely indicates whether a person has been included in the register; this is necessary to assess whether a person who wants to participate in the games of chance organised by the licence holder has been included in the register;
  - b. the officials referred to in Article 34(1), insofar as this is necessary for monitoring compliance with this act;
  - c. the board referred to in Article 33a, insofar as this is necessary for the performance of its duties under this act.
5. The citizen service number referred to in Article 1, under (b) of the Citizen Service Number (General Provisions) Act can be used in the processing of personal data.
6. The board will delete the entry in the register:
  - a. after the end of the period of exclusion as referred to in the first paragraph;
  - b. at the request of the person registered.The entry is not deleted if six months have not passed since the individual was included in the register.
7. Once the period of exclusion has expired, data included in the register will immediately be collected in an anonymous form and placed outside the register for policy development and statistical purposes.
8. By or pursuant to a General Administrative Order, rules are laid down with regard to the register and the use of the citizen service number. In any case, these rules relate to the data referred to in the third paragraph, and the manner in which
  - a. personal data, including the citizen service number, are processed;
  - b. the personal data, including the citizen service number, are protected against loss or unlawful processing by means of appropriate technical and organisational measures;
  - c. it is guaranteed that the processed personal data, including the citizen service number, are only processed for the purpose of the prevention and treatment of gambling addiction, and how this is supervised.
9. With respect to the management of and provisions from the register, the board referred to in Article 33a is the party responsible within the meaning of Article 1, under (d) of the Personal Data Protection Act.

T

The heading **§ 1. Designation of supervisors** is placed before Article 34.

U

The heading **§ 2. Powers** is placed after Article 34.

V

The following eight articles are inserted after Article 34b:

**Article 34c (participation in remote games of chance)**

1. The officials and persons referred to in Article 34(1) have the power to participate in remote games of chance as referred to in Article 31, providing incorrect or incomplete data with respect to their identity, insofar as this is reasonably necessary for the performance of their duties. In doing so, they will not induce the organiser of these games of chance to commit any violations other than those he already intended to commit.
2. The official or person who used the power referred to in the first paragraph will draw up a written report stating:
  - a. his name and his capacity;
  - b. the reason for using this power;
  - c. the provisions the compliance with which or enforcement of which is monitored;
  - d. the electronic address and, if known, the description of the person organising the remote games of chance;
  - e. the incorrect or incomplete data provided upon participation;
  - f. the manner in which and the period within which participation took place;
  - g. all that was performed, became evident and otherwise occurred during the investigation.

**Article 34d (seal)**

The officials and persons referred to in Article 34(1) have the power to place seals on business premises and objects, insofar as this is reasonably necessary for the purpose of exercising the powers referred to in Article 5:17 of the General Administrative Law Act.

**Article 34e (entry and search)**

The officials and persons referred to in Article 34(1) have the power to enter and search a house without the resident's permission, insofar as this is reasonably necessary for the purpose of exercising the powers referred to in Article 5:17 of the General Administrative Law Act.

**Article 34f**

1. The entry or search referred to in Article 34e requires prior authorisation by the examining judge of the Rotterdam District Court in charge with criminal matters. The authorisation may be requested by way of a precautionary measure. The authorisation is presented if possible.
2. Article 171 of the Dutch Penal Code applies mutatis mutandis. The examining judge may hear the public prosecution service before rendering a decision.
3. Insofar as the request for an authorisation has not been granted, the board referred to in Article 33a may appeal against the decision by the examining judge to the District Court of Rotterdam within fourteen days.
4. The entry or search will take place under the supervision of the examining judge.
5. Articles 2 and 3 of the General Act on Entry into Dwellings do not apply.

**Article 34g**

1. An authorisation as referred to in Article 34f must be reasoned, signed and state the

following:

- a. the name of the examining judge who issued the authorisation;
  - b. the name or number and the capacity of the party to whom the authorisation is issued;
  - c. the statutory provisions on which the search and entry are based;
  - d. the purpose and subject of the investigation;
  - e. the date.
2. If the entry or search is so urgent that the authorisation cannot be set out in writing in advance, the examining judge will ensure that the authorisation is set out in writing as soon as possible.
  3. The authorisation will remain in force until the third day after which it has been issued.
  4. Articles 6 of the General Act on Entry into Dwellings does not apply.

#### **Article 34h**

1. The official or person who entered or searched a dwelling as referred to in Article 34e will, under oath of office, draw up a written report on the entry or search.
2. The report will state:
  - a. his name or number and his capacity;
  - b. the date of the authorisation and the name of the examining judge who issued the authorisation;
  - c. the statutory provisions on which the search and entry are based;
  - d. the location of the entry or search and the name of the person whose dwelling was entered or searched;
  - e. the manner of entry and the start and end time of the search;
  - f. all that was performed, became evident and otherwise occurred during the investigation;
  - g. the names or numbers and the capacity of the other persons who entered the dwelling or participated in the search.
3. The report will be sent to the examining judge who issued the authorisation no later than the fourth day after the date on which the entry or search ended.
4. A copy of the report will be issued or sent to the person whose dwelling was entered or searched no later than the fourth day after the date on which the entry or search ended. If the purpose of the investigation so requires, the issue or sending of the report may be postponed. In any case, the report will be issued or sent as soon as the interest of this purpose so allows. If it is not possible to issue or send the copy, the examining judge or the official or person who entered or searched the dwelling will keep the copy available for six months for the person whose dwelling was entered or searched.
5. Articles 10 and 11 of the General Act on Entry into Dwellings do not apply.

#### **Article 34i (seizure)**

1. The officials and persons referred to in Article 34(1) are authorised to seize any objects that are eligible for seizure. For this purpose, they may demand their surrender.
2. The following objects are eligible for seizure:
  - a. objects that may serve to uncover the truth;
  - b. objects in order to demonstrate any proceeds of crime as referred to in Article 36e of the Dutch Penal Code;
  - c. objects whose confiscation or removal from circulation may be ordered.
3. The official or person who seized any objects will notify the person whose objects were seized in writing of the seizure and the grounds for this as soon as possible. If any objects of unknown persons are seized, this notification will be made in public according to rules to be laid down by order of Our Minister of Security and Justice.
4. Any objects that were seized in accordance with the first paragraph are forfeited to the state

without prosecution, unless the seizure is not upheld by a decision from the board referred to in Article 33a or by a court decision as referred to in the sixth paragraph.

5. The party who has an interest in the vehicle or object seized may, within one month after the seizure has been notified to the court of the district within which the seizure took place, may, either in person or through an authorised representative, lodge a reasoned complaint against this.

6. The district court will handle the complaint in accordance with the provisions of Article 552b of the Dutch Code of Criminal Procedure, on the understanding that the official or person who conducted the seizure is also given the opportunity to be heard during the processing of the complaint and, if he appeared during the processing of the complaint, he is informed by the registrar sufficiently in advance and in writing of the date of the judgment.

7. Article 552d of the Dutch Penal Code applies *mutatis mutandis*.

8. By order of Our Minister of Security and Justice, rules are laid down with regard to the storage of the objects seized, the conditions of this storage and the destruction of the objects seized.

9. The costs attached to the storage and destruction referred to in the eighth paragraph are borne by the offender. The board referred to in Article 33a may collect these costs by writ of execution.

#### **Article 34j (strong arm of the law)**

The officials and persons referred to in Article 34(1) will exercise the powers referred to in Articles 5.17, 5.18 and 5.19 of the General Administrative Law Act, the power of placing seals referred to in Article 34d, the power of entry and search referred to in Article 34e and the power of seizure referred to in Article 34i with the strong arm of the law, if necessary.

W

The following section is inserted after Article 34j:

### **§ 3. Supervision measures**

#### **Article 34k (supervision information)**

1. By or pursuant to a General Administrative Order, the following obligations may be provided for with regard to holders of a licence under this act:

- a. the obligation to record and manage data and documents that are important for monitoring compliance with the rules laid down by or pursuant to this act, and
- b. the obligation to periodically and incidentally provide data and documents as referred to under (a) to the board referred to in Article 33a and to the officials and persons referred to in Article 34(1).

2. The board may determine that data or documents as referred to in the first paragraph are provided or explained in person by the officer of the licence holder to be determined by it.

3. By or pursuant to a General Administrative Order referred to in the first paragraph, rules may be laid down with regard to the recording, management and provision of the data referred to in the first and second paragraphs.

#### **Article 34l (access to electronic systems)**

By or pursuant to a General Administrative Order, rules are laid down with regard to the electronic access of:

- a. the officials and persons referred to in Article 34(1);
- b. officers from the institutions referred to in Article 31i(2), under (b);
- c. the persons who, pursuant to Article 24(1) of the Anti-Money Laundering and Anti-

Terrorist Financing Act, are charged with monitoring compliance by institutions as referred to in Article 1(1), section (a), subsection 16<sup>o</sup> of this act,  
d. the officials and persons who, pursuant to Article 10 of the Sanctions Act 1977, are charged with monitoring compliance with this act, and  
e. officials from the Tax and Customs Administration,  
to electronic means that are used in organising games of chance and the data stored therein, insofar as this is reasonably necessary for the performance of their duties.

X

The following section is inserted after Article 34l:

#### **§ 4. International cooperation with other supervisory bodies**

##### **Article 34m**

1. The board referred to in Article 33a, and the officials and persons referred to in Article 34(1) cooperate with the bodies that are charged in other states with monitoring compliance with regulations on games of chance, insofar as this is necessary for the performance of their duties under this act or for the performance of the duties of this supervisory body.
2. In implementation of the first paragraph, the officials and persons referred to in Article 34(1) may exercise the powers referred to in Part 5.2 of the General Administrative Law Act and Title VIa of this act, insofar as this is compatible with Dutch legislation and public order.
3. Unless a convention binding to the Netherlands or European law dictates otherwise, the powers referred to in the second paragraph are only exercised in accordance with an agreement concluded with respect to cooperation between the board and a supervisory body as referred to in the first paragraph.
4. By or pursuant to a General Administrative Order, further rules may be laid down with regard to the preceding paragraphs.

Y

The heading “§ 1. Order for administrative enforcement action” is replaced by: § 1. Binding instruction and order for administrative enforcement action.

Z

The following article is inserted before Article 35:

##### **Article 34n (binding instruction)**

1. The board referred to in Article 33a may give the party who organises games of chance or who promotes the participation in games of chance organised without a licence under this act or provides means for this purpose, a binding instruction with regard to compliance with the regulations laid down by or pursuant to this act within a reasonable period given in such an instruction.
2. The purpose of the instruction referred to in the first paragraph could be for a public electronic communications service provider or a financial service provider to be forced to block the transactions that are used for:
  - a. organising games of chance without a licence under this act;
  - b. participation in games of chance as referred to under (a), or
  - c. advertising or canvassing activities for games of chance as referred to under (a),in which case the period referred to in the first paragraph will, in any case, not be less than six weeks.



3. If an application for injunctive relief has been filed with the competent court, the period referred to in the second paragraph will not end before six weeks have passed after a decision has been made on this application.

4. By or pursuant to a General Administrative Order, further rules may be laid down with regard to the binding instruction referred to in the first paragraph.

AA

Article 35 is amended as follows:

1. The designation “1.” is placed in front of the text.

2. The following paragraph is added:

2. In the event that the violation referred to in Article 35a(1), second sentence, means a refusal to render assistance as referred to in Article 5:20 of the General Administrative Law act, the board may impose an order subject to a penalty for non-compliance with allowing inspection of the business documents and records indicated in this order.

BB

Article 35a(1) will read as follows:

1. The board may impose an administrative penalty for violating the regulations laid down by or pursuant to Articles 1(1), under (a), (b) and (d), 1(2), 4a, 7, 10, 13, 14, 14c, 14d(1), 20(1), 21, 25, 27, 27c, 27e(1), 27i, 27j(1), 27ja, 30h(1), 30j(1), 30m(1), 30q(3), 30r(3) and (4), 30t(1), (2) and (5), 30u, 30v, 30z, 31i, 31j(1) and (2), 31k, 31l, 31m, 31n, 31o, 34k and 34l. The board may also impose an administrative penalty for acting contrary to Article 5:20(1) of the General Administrative Law Act and for breaking, eliminating or damaging a seal as referred to in Article 34d or for otherwise frustrating the purpose of the sealing.

CC

The following article is inserted after Article 35c:

#### **Article 35d (financial guarantee)**

By or pursuant to a General Administrative Order, rules are laid down with regard to the provision of a financial guarantee by the holder of a licence under this act for compliance with the financial obligations under:

a. the levy on games of chance referred to in Article 33e, and

b. the administrative sanctions for violating regulations laid down by or pursuant to this act.

## **Article II**

The **Betting and Gaming Tax Act** is amended as follows:

A

Article 1 will read as follows:

### **Article 1**

Under the name of tax on games of chance, tax is levied from:

a. the party providing the opportunity to participate in national casino games, not being remote games of chance;

b. the party giving the opportunity to participate in national poker tournaments, not being remote games of chance;

c. the holder of a licence for operating gaming machines as referred to in Article 30h(1) of the Betting and Gaming Act, with respect to the physical gaming machines offering games of chance and placed in the Netherlands under its licence;

d. the party receiving the proceeds from physical gaming machines offering games of chance and placed in the Netherlands without a licence as referred to under (c);

- e. the party providing the opportunity to participate in remote games of chance that are offered under a licence granted in accordance with the provisions of Title Vb of the Betting and Gaming Act;
- f. the parties entitled to the prizes of national games of chance, not being:
  - 1<sup>o</sup>. casino games;
  - 2<sup>o</sup>. poker tournaments;
  - 3<sup>o</sup>. games of chance played on gaming machines;
  - 4<sup>o</sup>. remote games of chance;
- g. the parties residing or established in the Netherlands and entitled to the prizes of foreign games of chance, not being
  - 1<sup>o</sup>. casino games, poker tournaments and games of chance played on gaming machines which are organised by natural persons or by bodies one or more of which reside or are established in a Member State of the European Union or in another state that is party to the Agreement on the European Economic Area;
  - 2<sup>o</sup>. remote games of chance;
- h. the parties entitled to the prizes of national remote games of chance, not being remote games of chance as referred to under (d);
- i. the parties residing or established in the Netherlands and entitled to the prizes of foreign remote games of chance, not being remote games of chance as referred to under (e).

## B

Article 2 is amended as follows:

1. In the first paragraph, under (a), “with the exception of life insurances and premium bond loans” is replaced by: including pyramid schemes and poker and with the exception of life insurances and premium bond loans.
2. The following two paragraphs are inserted after the first paragraph and the second and third paragraphs are renumbered to the fourth and fifth paragraphs:
  2. Remote games of chance are understood to be games of chance that are offered at a distance using electronic means of communication and in which a person participates without having any physical contact with the person providing this opportunity or providing space and resources for participating in these games of chance, with the exception of games of chance for which a licence is granted under a title other than Title Vb of the Betting and Gaming Act.
  3. A game of chance played on a gaming machine is understood to be a game of chance consisting of a mechanical, electric or electronic process, the result possibly being a direct or indirect distribution of winnings, including additional playing time.
3. In the fourth paragraph (new), “(Bulletin of Acts and Decrees 1959, 301)” ceases to apply.
4. In the fifth paragraph (new), “the second paragraph” is replaced by “the fourth paragraph”.
5. The following paragraph is added:
6. By ministerial regulation, rules may be laid down with regard to the definition of games of chance and remote games of chance.

## C

Article 3 is amended as follows:

1. The first paragraph, under (a), will read as follows:
  - a. in the cases in which Article 1(a), (b), (c), (d) or (e) applies, according to the difference between the stakes received in a calendar month and the prizes awarded and according to the revenues, other than the stakes, received by the taxpayer in a calendar month for giving the opportunity to participate in games of chance;
  2. In the first paragraph, under (b), “Article 1(1)(c) or (d)” is replaced by: Article 1(f) or (g).
  3. In the first paragraph, under (c), “Article 1(1)(e)” is replaced by: Article 1(h) or (i).

4. in the third paragraph “can be assigned” is replaced by: can be assigned, on the understanding that if a third party, not being a company associated with the withholding agent, charges the withholding agent an amount with respect to the prizes not received in money, the amount charged by the third party will be taken into account.

5. The following two paragraphs are added:

4. With regard to the prizes not existing in money in the form of provisions of sector-specific products from the withholding agent's business or from the business of a company associated with the withholding agent and notwithstanding the third paragraph, if an amount would be charged to a third party for the purchase of these products in the course of business, under otherwise similar circumstances, the amount to be charged to this third party will be taken into account.

5. By ministerial regulation, rules may be laid down with regard to the application of the third and fourth paragraphs.

#### D

Article 4(1) is amended as follows:

1. In the opening words, “Article 1(1)(c) or (d)” is replaced by: Article 1(f) or (g).

2. Subsection (a) will read as follows:

a. the prize which amounts to less than € 450;.

#### E

Article 4(1), opening words and under (a), will read as follows:

1. If Article 1(3)(f) or (g) applies, the following will be exempt from tax:

a. the prize which amounts to less than € 250;.

#### F

In Article 5(2), “Article 1(1)(c)” is replaced by: Article 1(f).

#### G

Article 5 will read as follows:

##### **Article 5**

1. The tax amounts to 29 per cent.

2. In derogation from the first paragraph, the tax amounts to 20 per cent in the cases in which Article 1(e) applies.

3. If, in case Article 1(f) applies, the person who owes the prize pays the tax, the prize is multiplied by 100/71 in order to calculate the tax.

#### H

Article 5a is amended as follows:

1. In the first paragraph, “Article 1(1)(a) or (b)” is replaced by “Article 1(a), (b), (c), (d) or (e)”. Furthermore “tax owed in a period of time” is replaced by: tax owed in a calendar month.

2. The third paragraph ceases to apply.

#### I

Article 5b ceases to apply.

#### J

In Article 6(1), “Article 1(1)(c)” is replaced by: Article 1(f).

K

Article 7 ceases to apply.

L

In Article 8(1), “Article 1(1)(d)” is replaced by: Article 1(g).

M

In Article 8a(1), “Article 1(1)(e)” is replaced by: Article 1(h) or (i).

### **Article III**

In the **State Taxes Act**, Article 67ca(1)(b) ceases to apply and subsections (c) to (f) are relettered subsections (b) to (e).

### **Article VI**

In Article 11 of the **International Assistance (Levy of Taxes) Act**, “first paragraph, under (b) to (f)” is replaced by: first paragraph, under (b) to (e).

### **ARTICLE V**

In article 1(1)(c), subsection 11<sup>o</sup>, of the **Public Administration (Probity Screening) Act**, “Articles 30b and 30h” is replaced by: Articles 30b, 30h and 31.

### **ARTICLE VI**

In Article 1(1)(a) of the **Anti-Money Laundering and Anti-Terrorist Financing Act**, subsection 16<sup>o</sup> will read as follows:

16<sup>o</sup>. natural person, legal entity or company organising, in a professional or commercial capacity, a gaming casino within the meaning of Article 27g of the Betting and Gaming Act or remote games of chance within the meaning of Article 31 of this act;

### **ARTICLE VII**

The following subsection is added to Article 28(3) of the **Commercial Register Act 2007**, the full stop at the end of subsection (j) being replaced by a semicolon:

k. the games of chance authority referred to in Article 33 of the Betting and Gaming Act, for the performance of its duties.

### **ARTICLE VIII**

Our Minister of Security and Justice will, within four years after this act has entered into force, send the States General a report on the effectiveness and effects of this act in practice.

### **ARTICLE IX**

This Act shall come into force on a date determined by royal Decree, which may vary for the different articles or parts thereof.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees, and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done,

The State Secretary for Security and Justice,

The State Secretary for Finance,