

Act amending the Land [State] Gambling Act

Preamble

A. Purpose

The Land Gambling Act (LGlüG) is to be adapted to the amended legal position of the State Treaty on Gambling 2021 (GlüStV 2021). In addition, enforcement is to be strengthened.

B. Main content

On 1 July 2021, the State Treaty on Gambling 2021 entered into force. Under strict conditions, this makes it possible to offer online gambling games which were previously banned in Germany. Central tasks of gambling supervision, especially in the field of the internet, were transferred to the Joint Gambling Authority of the Länder (GGL).

The purpose of this Act is to adapt the Land Gambling Act to the amended legal position. In particular, the following amendments are foreseen:

- The rules for excluding players and the exclusion file are aligned with the newly-introduced central exclusion system for players across the forms of gambling. This includes, among other things, the extension of the mandatory requirements to arcades and restaurants, the obligation of intermediaries to register exclusions themselves, the possibility of short-term exclusions and a procedure for the lifting of the exclusion.
- In accordance with the cabinet decision of 9 March 2021, the State of Baden-Württemberg makes use of the possibility provided for in § 22c(1)(1) of the State Treaty on Gambling 2021 to organise online casino games for its territory. The implementation of the Cabinet Decision provides for corresponding regulations for this purpose.
- A specialist centre for gambling addiction in Baden-Württemberg e.V. is to be established at the State Office for Addiction Issues of the Liga der freien Wohlfahrtspflege [League for free welfare care] Baden-Württemberg e. V. (LSS).

- Implementation will be strengthened by a new regulation on competence that allows the Land to carry out controls in arcades, in addition to the on-the-spot controls by municipalities. In addition to a synergy effect, this makes it possible to combine the arcade controls with the controls on betting shops, which has a positive impact on the control density, costs and scope of controls.
- Finally, the administrative offences will be adapted to the amended rules and charges will be created for the new tasks.

C. Alternatives

No equally suitable and secure alternative to the organisation of online casino games by Land-Baden-Württemberg which enables channelling into the legal market is apparent.

There are no alternative measures to improve supervision that ensure equally effective and cost-effective control options.

D. Costs for public budgets

Measures to improve supervision

For the implementation of the requirements in § 47(6) of the Land Gambling Act, there are annual personnel costs for the control group to be set up at the Karlsruhe Government Presidium in the amount of EUR 908 130 (one employee of managerial staff grade A11 and twelve employees of clerical staff grade A9, including staff on-costs). The task-related special costs of an estimated EUR 123 150 in the first year after the establishment of the control group and EUR 38 350 as ongoing annual costs result from one-off acquisition costs in the first year after the establishment of the control group and ongoing special costs. This can be financed by fee receipts of an average of EUR 600 per control of the approximately 1,760 venues.

For the execution of test games and test purchases, as optional supplementary supervisory measures in addition to on-the-spot checks, the Karlsruhe Government Presidium, as the competent gambling supervisory authority, will be granted money for game fees in the amount of around EUR 3 000 per year. It is expected that the necessary amounts can be taken from the additional fees of the control group after

its establishment.

Organisation of online casino games

As part of the control of the planned online casino offer by the Land of Baden-Württemberg, it is intended to use the already existing safe server evaluation system GGL in order to save costs. According to the current estimate, maximum costs of EUR 7 000-8 000 as basic costs would be incurred on a one-time basis by the Land of Baden-Württemberg. In terms of operating costs, an annual cost of around EUR 10 000 would be expected for the Land. The costs of monitoring the total amount of around EUR 17 500 in the first year from the granting of permission and around EUR 10 000 for the following years can be invoiced via fees or expenses of the Staatliche Toto und Lotto GmbH in the same amount. A new fee will be created for this purpose. The implementation of the measure is thus neutral in budgetary terms.

Specialist Centre for Gambling Addiction

The implementation of the Centre for Gambling Addiction will entail annual personnel costs of EUR 83 100, including flat-rate material costs. In addition, task-related special costs of EUR 30 000 are to be expected. In total, there are annual costs of EUR 113 100, which fall within the business and budget area of the Ministry of Social Affairs. Whether and to what extent additional funds will be granted for the establishment of the Specialist Centre for Gambling Addiction and its financing must be decided in the context of a forthcoming budget statement.

E. Compliance costs

Not applicable.

F. Sustainability check

There will be positive impacts on the 'well-being and satisfaction' target area.

G. Other costs for private citizens

None.

Act amending the Land Gambling Act (LGlüG)

From

Article 1

Amendment to the Land Gambling Act

The Land Gambling Act of 20 November 2012 (GBl. [Law Gazette] p. 604), most recently amended by the Act of 4 February 2021 (GBl. p. 174) is amended as follows:

1. § 1 shall be worded as follows:

‘§ 1

Objectives of the Act

On the implementation of the State Treaty on Gambling 2021 (State Treaty on Gambling 2021, ratified by the Act on the State Treaty on Gambling 2021 of 4 February 2021, GBl. S. 120) and to achieve the objectives set out therein and to regulate the area of gambling consistently and coherently as a whole, the following regulations shall be adopted for the Land of Baden-Württemberg.’

2. § 2 shall be worded as follows:

‘§ 2

Licence

(1) The organisation and mediation of public games of chance as well as the operation of casinos and arcades require permission pursuant to § 4(1) of the State Treaty on Gambling 2021, granted on the basis of a written application. Organisers within the meaning of the following provisions include operators of casinos and arcades. Licenses which are not subject to uniform procedures between the Länder under § 9a(1) of the State Treaty on Gambling 2021 may only be granted in accordance with the provisions of the State Treaty on Gambling 2021 and this Act if:

1. § 4 Paragraph 2 sentence 1 State Treaty on Gambling 2021 in conjunction with §§ 1 and 4(2) sentence 2 State Treaty on Gambling 2021 does not preclude that

2. compliance is ensured with

a) the protection of minors pursuant to § 4(3) of the State Treaty on Gambling 2021 and

b) the internet prohibition in § 4(4) of the State Treaty on Gambling 2021 subject to paragraph 2;

c) the requirements for the social concept pursuant to § 6(2) of the State Treaty on Gambling 2021 and § 7 and

d) the requirements for information on addiction risks under Article 7 of the State Treaty on Gambling 2021

and

3. the organiser or the intermediary of public games of chance is reliable, in particular guarantees that the event or the mediation is carried out properly and for the game participants as well as for the licensing authority.

The conditions laid down in the State Treaty on Gambling 2021 are decisive for uniform procedures pursuant to § 9a(1) to (3) of the State Treaty on Gambling 2021. The supporting documents shall be provided by the applicant by presenting appropriate representations, concepts and certificates; the licensing authority is not obliged to carry out its own investigations without such documents. If evidence cannot be provided in German, it must be presented at the expense of the applicant in a certified copy with a certified German translation. Presentations and concepts must, where necessary, be developed before the application is submitted and presented with the application together with certificates obtained. A license shall be refused if the organisation or mediation of gambling is contrary to the objectives of § 1 State Treaty on Gambling 2021.

(2) Permission for the mediation of public games of chance presupposes a license for the organisation of these games of chance by the competent authority of the Land. A license in the uniform Länder procedure pursuant to § 9a(1) of the State Treaty on Gambling 2021 is equivalent to that of the competent authority of the Land.

(3) Licenses shall be issued in writing. It may be accompanied by requirements, conditions, reservation of subsequent inclusion, modification or addition of a condition and the reservation of revocation.

In the cases referred to in § 8(2) of the State Treaty on Gambling 2021, the license must provide proof of a connection to the central exclusion file across forms of gambling as well as its functional capacity and commissioning.

(4) In addition to the provisions to be adopted pursuant to § 9(4) of the State Treaty on Gambling 2021, the license must specify in particular

1. the organiser or intermediary, including third parties,
2. the game that is organised or mediated,
3. the form of distribution or mediation,
4. the place or territory and start and duration of the event,
5. at lottery events, the programme and
6. in the case of mediation, the organisers of the game of chance to be mediated.

In the license, provisions on deposit limits for the exclusion of excluded players and for advertising that go beyond §§ 5, 6c, 20, 21a, 22 and 22c of the State Treaty on Gambling 2021 can be made.

(5) The conditions for participation in events of games of chance which are not permitted in the standard Länder procedure pursuant to § 9a State Treaty on Gambling 2021 require the permission of the competent authority. In particular, provisions must be made in the conditions for participation on:

1. the conditions under which a gaming or betting contract is concluded;
2. the winnings plans and disbursements;
3. the announcement of the winning numbers or results of the sports betting;
4. the period within which winnings can be claimed;

5. the use of the winnings to which a claim has not been made in due time or which cannot be delivered; and
6. the payment of the winnings.

Before concluding the contract, the organiser or intermediary must draw attention to its terms of participation or clearly display them and provide the player with the opportunity to take note of the content in a reasonable manner. The officially permitted conditions of participation in games of chance within the meaning of § 9(2) shall be made public by the competent authority.

(6) Permission cannot be transferred to another person or given to another person to use.

(7) License holders shall be obliged to notify the competent authority without delay of any change to the facts relevant to the granting of the license.

(8) Once the license has been granted, the licensing authority may require the person holding the license to submit periodically updated evidence of the reliability and professional suitability of their person and of the persons employed to manage the operation.'

3. § 3 shall be worded as follows:

‘§ 3

Tasks of supervisory authorities

(1) The competent authorities under this Act shall supervise the fulfilment of the public-law obligations established by the State Treaty on Gambling 2021 or on the basis of the State Treaty on Gambling 2021; this also applies to public-law obligations established by this Act or on the basis of this Act.

The gambling supervisory authorities (§ 47(1)) support the Joint Gambling Authority of the Länder (GGL, 9th Section of the State Treaty on Gambling 2021), which is responsible for the management of the central exclusion system across the forms of gambling and the GGL-based office for cooperation between the gambling supervisors of the Länder in the performance of their respective tasks.

(2) The competent authority and, in the case of § 47(2), the competent local police authority shall be authorised to enter the property and business premises of the person holding a license during normal business hours, to carry out checks and inspections there for the purpose of supervision, to have the business records presented and to inspect them. To prevent urgent threats to public security and order, the property and business premises may also be entered during the day outside the period referred to in sentence 1 and throughout the day even if they also serve residential purposes of the person concerned. The fundamental right to the inviolability of the home (Article 13 of the Basic Law) is restricted in this respect.

(3) The person concerned may refuse to provide information on such questions where the answer could expose them or one of the relatives referred to in § 383(1)(1) to (3) of the Code of Civil Procedure to the risk of criminal prosecution or proceedings under the Law on Administrative Offences.

(4) For the performance of the tasks referred to in paragraph 2 by the competent authority pursuant to § 47(6), the employees of the gambling supervisory authority designated for this purpose shall be trained and equipped with appropriate protective equipment.

(5) Paragraph 2 shall apply *mutatis mutandis* where facts justify the assumption that gambling which is subject to authorisation, but not permitted or prohibited, is being organised or mediated. The organising and mediation of unauthorised gambling and the advertising thereof shall be prohibited.

(6) In order to fulfil its tasks, the competent gambling supervisory authority may carry out test purchases or test games that are not recognisable as measures of the gambling supervisory authority. For this purpose, the employees of the gambling supervisory authority may participate in legal transactions under a permanently altered identity (alias). As far as it is essential for the development or maintenance of the alias, corresponding certificates may be produced, modified and used. Required entries in registers, books or files may be made.

(7) The competent gambling supervisory authority may also commission natural or legal persons under private law to make test purchases and test games with mature persons or minors to supervise the protection of young people. In the case of engagement of minors, the protection of young people must be ensured. The detailed specifications for the execution of test purchases or test games by minors shall be

drawn up by the Ministry responsible for the protection of young people in agreement with the highest supervisory authorities within the meaning of § 47(1) and (3).

(8) For the implementation of test games and test purchases, sufficient financial resources are made available to the competent gambling supervisory authority by the state of Baden-Württemberg, subject to provision by the budget legislature within the framework of the respective plan statement, taking into account the budgetary framework.

(9) The competent gambling supervisory authority shall be obliged to communicate to the competent tax authority at its request any information obtained in the course of the supervisory activity, insofar as this is necessary for the conduct of proceedings in tax matters.'

4. § 4 shall be worded as follows:

‘§ 4

Player exclusion

(1) In accordance with § 8a State Treaty on Gambling 2021, player exclusions must be entered in the central exclusion file across the forms of gambling in accordance with § 23 State Treaty on Gambling 2021 immediately after their application. The person affected by the exclusion must be informed immediately of the registration and the procedure for the termination of the exclusion Applications for the lifting of exclusions pursuant to § 8b of the State Treaty on Gambling 2021 shall be immediately forwarded by the obliged entity pursuant to § 8(3) of the State Treaty on Gambling 2021 to the authority responsible for maintaining the exclusion file.

(2) In the case of a third-party exclusion, the person affected by the intended exclusion may be excluded from the game operation by exercise of proprietary rights until the completion of the review.

(3) Details of the procedure for the registration and removal of exclusions as well as the obligation to keep records are governed by §§ 8a and 8b of the State Treaty on Gambling 2021. Data transmission, collection and processing shall be carried out in accordance with § 23(6) of the State Treaty on Gambling 2021.

(4) The connection to the exclusion system and its use are subject to a fee pursuant to § 8c State Treaty on Gambling 2021. The costs shall be claimed by the body responsible for the exclusion file with the obliged entities pursuant to § 8(3) of the State Treaty on Gambling 2021.'

5. §§ 5 and 6 are repealed.

6. § 7 shall be worded as follows:

'§ 7

Social concept

(1) The person holding the permission pursuant to § 2 is obliged to encourage the players to play responsibly and prevent the development of gambling addiction. For this purpose, for each permission pursuant to § 2, the responsible person shall develop, continuously update and implement a social concept according to the current state of addiction research. This should explain what measures are being taken to prevent problematic and pathological gambling, how affected players are placed in the support system, and how compliance is monitored and violations handled. The authors, in addition to their professional qualifications and the persons responsible for implementing the social concept, shall be identified by name. The provisions of § 6(2) sentence 3 of the State Treaty on Gambling 2021 must be observed.

(2) Except in the case of uniform Länder procedures and in the cases referred to in § 19(2) of the State Treaty on Gambling 2021, the person holding the license under § 2 is obliged to train the persons listed in § 6(2)(3)(3) of the State Treaty on Gambling 2021 directly through an institution active in addiction support in Baden-Württemberg at their own expense. In the case of savings bonds, only those

responsible for the implementation of the social concept in the respective bank must be trained. The duration of the training depends on the risk potential of the respective gambling offer and includes at least eight hours. In particular, the training provides legal foundations for youth and player protection, the medical addiction basis to identify causes and consequences of problematic and pathological gambling, as well as knowledge of the provider-independent local support services for affected persons and relatives in Baden-Württemberg. In particular, the training also includes practical

skills for early detection, contact and transfer to the support system. The training should take place no later than 3 months after the start of work of the persons to be trained. The trained persons shall be re-trained at the latest after two years. The training of the staff must be demonstrated by evidence to the competent gambling supervisory authority.

(3) Before the end of the first three months of a year, the person holding the license pursuant to § 2(1) sentence 3 shall report to the competent authority on the measures taken in the two previous years to implement the social concept, including the number of exclusion measures, and provide evidence of the persons trained.

(4) The person holding the license pursuant to § 2(1) sentence 3 is obliged to keep information materials from the local counselling centres at their own expense in their venue or point of sale. The person informs all players in an appropriate manner which contact persons are available in the operation of the game. With the exception of the betting terminals pursuant to § 13 and in the case of savings bonds, scientifically recognised self-testing to detect problematic and pathological gambling as well as applications for self-exclusion must be kept clearly visible.

(5) Insofar as gambling is offered on the internet, at least one link must be provided to the site 'www.bundesweit-gegen-gluecksspielsucht.de'; or 'www.buwei.de'; in order to fulfil the obligation under § 6e(5) sentence 3 of the State Treaty on Gambling 2021.'

7. After § 7, the following § 7a is inserted:

'§ 7a

Specialised Centre For Gambling Addiction Baden-Württemberg

(1) At the state level, a specialised centre for gambling addiction will be established, the tasks of which are carried out by the State Office for Addiction Issues of the Liga der freien Wohlfahrtspflege Baden-Württemberg e.V.

(2) In the area of gambling addiction, the specialist centre shall bundle and network the various actors, develop legal and technical addiction findings and support, develop scientific knowledge, maintain information and conduct public information.

(3) The centre has an advisory function, works without mandate and is technically independent.

(4) The responsibilities of the authorities governed by the Land Gambling Act shall remain unaffected.'

8. In § 8 sentence 1, the words 'The organiser, intermediary or operator of an arcade' are replaced by the words 'The organiser or intermediary of public games of chance'.

9. § 9 shall be worded as follows:

'§ 9

Public task

(1) In order to achieve the objectives of the State Treaty on Gambling 2021, the state of Baden-Württemberg guarantees that a sufficient range of games of chance is provided as a regulatory task.

(2) In order to ensure a sufficient range of games of chance (§ 10(1) of the State Treaty on Gambling 2021), the Land organises the following games of chance:

1. number lotteries;

2. Ticket lotteries; and

3. online casino games within the meaning of § 22c State Treaty on Gambling 2021.

By way of derogation from sentence 1, the institution of public law GKL Gemeinsame Klassenlotterie der Länder ('GKL Joint Class Lottery of the Länder') organises on the basis of the State Treaty on the establishment of the GKL Joint Class Lottery of the Länder (GKL-StV), ratified by the Act on the First Amendment State Treaty on Gambling and the State Treaty establishing the GKL Joint Class Lottery of the Länder of 26 June 2012, GBl. p. 385) class lotteries and related offers. It performs the public task under § 10(1) of the State Treaty on Gambling 2021 in relation to class lotteries and similar gaming offers (gambling).

(3) The Land may organise additional lotteries and draws.

(4) The Land may appoint a legal entity governed by private law, in which the Land is directly or indirectly significantly involved, to carry out the games of chance organised by the Land. The task referred to in paragraph 1 may also be carried out by a public institution jointly managed by all contracting Länder. Similarly, on the basis of an administrative agreement, a joint performance of tasks with other Länder or the performance of tasks by the undertaking of another Land which fulfils the requirements of § 10(2) sentence 1 State Treaty on Gambling 2021 is possible. Class lotteries may only be hosted by a public-law institution under the joint direction of all States party to this Treaty.

(5) By way of derogation from paragraph 4, the Land may organise online casino games for players domiciled in Baden-Württemberg itself, by a legal entity governed by public law or by a private company in which legal entities under public law are directly or indirectly involved. On the basis of an administrative agreement, a joint event or event by one organiser of another Land pursuant to § 22c(1) sentence 1 point 1 State Treaty on Gambling 2021 is possible. If sentence 1 or sentence 2 is used, §§ 4a to 4d and § 22a(1), (3) to (5), 6 sentences 2, 8 and 9 of the State Treaty on Gambling 2021 shall apply mutatis mutandis. To achieve the objectives of § 1 of the State Treaty on Gambling 2021, the gaming supervisory authority responsible for granting the licence may limit the maximum bet per game and the number of games offered and, upon request, allow parallel play within an offer in accordance with § 22b(5) of the State Treaty on Gambling 2021. The audiovisual or purely visual transmission of casino games from a casino or other location within or outside the state of Baden-Württemberg is permitted. More detailed rules regulate the permission. The organiser may use third parties if it is ensured that the organiser fulfils all the requirements that the organiser would have to fulfil if they were to perform the task themselves.

(6) The State Treaty establishing the GKL Joint Class Lottery of the Länder remains unaffected.

(7) The Land performs scientific research on the avoidance and prevention of addiction risks through gambling, addiction prevention and support as well as gambling supervision as a public task. For this purpose, it shall make available a reasonable share of the net income of games of chance referred to in the first sentence of paragraph 2.'

10. § 10 is worded as follows:

‘§ 10

license for the organisation of state gambling games

(1) If the conditions laid down in § 2(1), third sentence, points 1 to 3 and the conditions resulting from the State Treaty on Gambling 2021 are met, a license may be granted for the organisation of games of chance within the meaning of § 9(2) if:

1. the game of chance is necessary to ensure a sufficient range of such games;
2. in the case of the introduction of new gambling offers in the meaning of § 9(2), first sentence, points 1 and 2, or the introduction of new or significant expansion of existing distribution channels for them, for which the requirements of § 9(5) of the State Treaty on Gambling 2021 are satisfied, and
3. a distribution concept is presented which, with regard to the lotteries referred to in § 9(2)(1)(1) and (2), also contains the limitation of the acceptance points provided for in § 13(1) or includes a limitation on the number of games offered in respect of online casino games.

(2) Permission to organise a state game of chance must be made public by the competent authority. In the case of Land-specific licenses pursuant to § 9a of the State Treaty on Gambling 2021, the authority referred to in § 47(1) shall disclose the permission of the competent authority if it does not publish a notice.’

11. § 11 is worded as follows:

“§ 11

Distribution of winnings

In the case of games of chance within the meaning of § 9(2) which are not permitted in the uniform procedure of the Länder pursuant to § 9a State Treaty on Gambling 2021, the following winnings shall be made available for distribution to the game participants in accordance with the officially permitted conditions of participation:

1. for number lotteries at least 45 percent according to the theoretical winnings plan;
and

2. in Lotto lotteries, at least 40 percent of the stakes.

In the case of additional lotteries or draws, the winnings plan shall provide at least one third of the stakes for distribution. Processing fees and other contributions to the costs of the players are not part of the stakes.'

12. § 13 shall be worded as follows:

'§ 13
Betting terminals

(1) The number of betting terminals of the legal entity entrusted with the implementation of the state gambling in accordance with § 9(4) shall be limited to 3 300.

(2) The area distribution of the betting terminals shall be aligned with the objectives of § 1 State Treaty on Gambling 2021. The detailed design is to be defined in a concept by the organiser or the legal entity responsible for the implementation of the games of chance. The concept has to be based in particular on the spatial population structure. The distribution concept is a prerequisite for the granting of a license pursuant to § 10(1).

(3) The operation of a betting terminal is subject to the authorisation of the competent authority. The application may only be made by the legal person authorised to carry out the state gambling in accordance with § 9(4). The operation may only be permitted if:

1. the person operating the betting terminal has the personal reliability required for the processing of the gambling business and the payment transactions;
2. § 2 paragraph 1, third sentence, points 1, 2(a), (b) and (d) are fulfilled;
3. the person operating the betting terminal does not also act as a commercial gaming intermediary at the same time;
4. the betting terminal is not to be operated in a complex of buildings in which a

casino or horse betting shop is located, in an arcade or betting shop, on a horse race track or in a restaurant where alcoholic beverages are served, or in other premises of a restaurant where game machines are installed, or in premises where water pipes (shishas) are offered or issued for consumption;

5. the betting terminal does not contravene the concept set out in paragraph 2 to limit the number of betting terminals and, in particular, is not operated in premises which, according to their location, nature, equipment and classification, preclude the objective of allowing only a limited offer of gambling; and
6. no facts justify the assumption that permission for other reasons could jeopardise public security or order.

(4) A betting terminal may only mediate such games of chance which are permitted under this Act. Provision of sports betting is permitted only until 30 June 2024 and only then if the legal person with permission to carry out state gambling pursuant to § 9(4), either itself or a company in which it is a party, holds the authorisation in accordance with §§ 4a to d State Treaty on Gambling 2021.'

13. In § 14, the words 'Article 1(22) First State Amendment Treaty on Gambling' are replaced by the words '§ 22 State Treaty on Gambling 2021' and the word 'limits of stake' by the word 'deposit limits'.

14. § 15 shall be amended as follows:

- a) In the first sentence of paragraph 1, the words 'Article 1 Section 3 First State Amendment Treaty on Gambling' are replaced by the words 'Section 3 of the State Treaty on Gambling' and the words 'Article 1 § 10(2) and (3) First State Amendment Treaty on Gambling' by the words '§ 10(2) and (3) of the State Treaty on Gambling 2021'.

- b) In paragraph 2, first sentence, point 1 is worded as follows:

'1. which extend at most to the territory of an adjacent city or district,';

- c) In paragraph 2, first sentence, in point 5, the word 'two' is replaced by the word 'three'.

d) Paragraph 2 sentence 2 shall read as follows:

‘The general license referred to in sentence 1 may be granted by way of derogation from § 4(3) second sentence, §§ 6, 7, 14(1), first sentence, point 1, § 15(1), fourth and fifth sentences, § 15(3), second sentence, and § 17 Treaty on Gambling 2021.’

15. In § 16(2)(1), the words ‘First State Amendment Treaty on Gambling’ are replaced by the words ‘State Treaty on Gambling 2021’.

16. § 17 shall be amended as follows:

a) In paragraph 1, the following sentence is added:

‘The lottery in the form of savings bonds constitutes a lottery with a lower risk potential pursuant to Paragraph 15’.

b) In the third sentence of paragraph 2, the word ‘saving deposit’ is replaced by the word ‘deposit’.

17. § 18 is worded as follows:

“§ 18
Commercial gaming brokerage

(1) A licence for commercial gaming brokerage may be granted by the competent gambling supervisory authority exclusively for the territory of Baden-Württemberg under the conditions laid down in § 2(1) sentence 3 points 1 to 3 and only if the mediation does not conflict with the objectives of the State Treaty on Gambling 2021 and complies with the provisions of this Act. In particular, mediation may only be permitted if the requirements of § 19 State Treaty on Gambling 2021 are met and

1. the intermediary possesses the reliability required for this activity from a personal, factual and commercial point of view;
2. the intermediary has submitted its contracts with the organiser and with the trustee and no concerns have arisen as a result;

3. the manner of distribution is disclosed in a concept;
4. the intermediary has submitted its general terms and conditions and no concerns have arisen as a result;
5. only games of chance permitted under this Act are mediated (§ 2(3));
6. the business relationship with the players is such that all winnings accrued, including in-kind winnings or rounding differences, are paid to the players; and
7. no other facts justify the assumption that mediation may jeopardise public security or order or affect other public interests.

In the application and in the license, the products which the commercial gaming intermediary intends to mediate, including the prices charged for this purpose, shall be specified.

(2) Any changes to the terms and conditions that are not purely editorial are subject to permission.

(3) In order to prove the transmission of at least two thirds of the sums collected from the players for participation in the game by the organiser (§ 19(1) of the State Treaty on Gambling 2021), the commercial game broker, which operates commercial gaming mediation exclusively in the territory of the Land of Baden-Württemberg, must submit to the competent authority within six months of the end of each financial year a confirmation of a member of a legal or tax consultancy profession. They shall also submit an annual financial statement which has been audited and confirmed by an auditor, together with the management report and the auditor's audit report. In addition, proof of the use of uncollected or undeliverable winnings as well as rounding differences in payouts to the players as well as participants of gaming clubs must be provided, which must also be confirmed by an expert third party. Both documents must be submitted by 30 September of the respective calendar year. The costs shall be borne by the person holding the license.

(4) Commercial game brokers and commissioned third parties within the meaning of § 3(8), State Treaty on Gambling 2021 are obliged to inform the players in writing or electronically and comprehensibly in connection with the conclusion of the contract, how much of the player's fee is transferred to the organiser as a transfer amount and what amount the commercial match broker retains for itself. Immediately after

mediation of the game order, there is an obligation to:

1. designate the organiser bindingly to the player,
2. expressly point out the conditions of participation of this organiser and
3. facilitate awareness of the conditions of participation of this organiser in a reasonable manner.

(5) Local points of sale of commercial game intermediaries are not permitted.

(6) Paragraphs 3 and 5 shall also apply to commercial gaming intermediaries granted authorisation from the central competent authority in the bundled procedure in accordance with § 19 paragraph 2 of the State Treaty on Gambling 2021.'

19. § 19 shall be worded as follows:

'§ 19

Lottery recipients

(1) In Baden-Württemberg, only points of sale of the GKL Joint Class Lottery of the Länder (GKL) are permitted. Games of chance other than those offered by the GKL on the basis of a license may not be brokered at the point of sale.

(2) An application for several points of sale by the organiser can be made jointly in one application (collective request). This is decided by the competent authority pursuant to § 47(1). § 13 The first and second sentences of paragraph 3 and the third sentence points 1, 2 and 6 shall apply mutatis mutandis.'

19. § 20 shall be amended as follows:

a) Paragraph (1) is worded as follows:

'(1) A betting brokerage agency is a local point of sale where sports betting is mediated exclusively by a person holding a license. A person holding a license is a person to whom a license has been granted pursuant to §§ 4a to 4d of the State Treaty on Gambling 2021.'

b) In the first sentence of paragraph 2, the word 'concession' is replaced by 'license'.

c) Paragraph 5 is amended as follows:

aa) In the second sentence, after the words 'advertising effect', the word 'exclusively' is inserted and the word 'concession' is replaced by the word 'license'.

bb) In sentence 3, the words 'sports betting' are replaced by the words 'sports bets of the person to whom is to be mediated who holds the license'.

20. § 20a reads as follows:

‘§ 20a

License for betting shops

(1) The operation of a betting agency requires permission from the competent authority. Permission may only be granted to the person operating the betting brokerage agency if:

1. the person to whom is to be mediated is the holder of a license;
2. the application for a license to operate a betting brokerage agency is made by a person holding a license within the meaning of § 20(1) sentence 2 for the person operating the betting brokerage agency and the person holding the license ensures that the person operating the betting brokerage agency fulfils the legal requirements for the operation of the betting brokerage agency;
3. the person operating the betting brokerage has the personal, factual and commercial reliability necessary for the execution of the gambling transaction and the payment transactions;
4. neither the person operating the betting agency nor their staff have any direct or indirect influence on the outcome of a betting activity;
5. the conditions under § 2(1)(3)(1) to (3) are met,
6. no sports bets are offered other than that offered by the person referred to in point

2;

7. the betting agency is not

- a) in a building or building complex where there is a casino or arcade,
- b) on a horse racing track, or
- c) in a restaurant where alcoholic beverages are served or gaming machines are located,

8. the betting agency is not operated in premises which, according to its location, quality, equipment and classification, are contrary to the objectives of § 1 State Treaty on Gambling 2021;

9. the operation of the betting agency does not arouse concern of danger to young people, excessive exploitation of the gambling urge, harmful environmental influences within the meaning of the Federal Immission Protection Act or other unreasonable disruption to the general public, neighbours or an institution existing in the public interest, and

10. no facts justify the assumption that permission for other reasons could jeopardise public security or order.

Point 7 shall apply mutatis mutandis in the event that an arcade is to be erected or operated in a building or building complex in which a betting agency is already located.

(2) The application for a licence to operate a betting brokerage agency shall contain the following information:

- 1. first name, surname including previous names, date of birth, nationality and residential address of the person who will operate the betting agency;
- 2. address and telephone number of the betting agency;
- 3. a certificate from the municipality in which the betting agency has its registered office or a publicly appointed surveying engineer that the distances referred to in §

20b(1) to (3) are complied with, where proof can also be provided by means of official files, maps, plans, directories, archives or the like; and

4. the betting programme of the person holding a license as covered by the license.

The following documentation must be attached to the application:

1. Proof of the application for a simple certificate of conduct to be submitted to the authorities for the person who will operate the betting agency, where, in the case of persons who are, in addition to or instead of German nationality, the nationality of another or more other Member States of the European Union, the application for a European certificate of conduct is to be presented as evidence to an authority;
2. Proof that the person who will operate the betting brokerage agency has a residence and work license, unless they are a citizen of a Member State of the European Union or one of the following states
 - a) Iceland
 - b) Liechtenstein
 - c) Norway
 - d) Switzerland;
3. trade and commercial central register information, which may be no older than three months at the time of the application, relating to the person who will operate the betting brokerage office;
4. Information from the tax office on the tax reliability of the person who will operate the betting brokerage office;
5. a declaration of commitment of the person who will operate the betting agency to comply with the objectives of the State Treaty on Gambling;

6. the social concept according to § 7 as well as advertising, security, IT security and money laundering prevention concepts, including the designation of the respective persons responsible for these areas,
7. proof of the legal origin of the means necessary for the operation of the betting brokerage agency.

The competent licensing authority may request the submission of further documents. After granting the license, the person operating the betting brokerage shall immediately notify changes to the information referred to in paragraph 2, sentence 1, numbers 1, 2 and 4 without delay to the person holding the license within the meaning of § 20(1) sentence 2, who shall in turn forward this information to the competent authority in writing or by electronic means.

(3) If the betting agency is to be operated by a legal person or a partnership, paragraph 2 shall apply *mutatis mutandis* to the legal person itself and its authorised representative bodies, as well as to the managing partners of the partnership and, where applicable, its managing limited partners. In addition to the documents referred to in paragraph 2, the application shall be accompanied by the part of the articles of association required to be published.

(4) Following granting of the license, the person operating the betting brokerage shall notify without delay changes to the information referred to in paragraph 3 concerning the company, the registered office, the representative bodies or changes to the managing limited partners of the partnership and, where applicable, their managing partners, to the person holding the license within the meaning of § 20 (1) sentence 2, who shall in turn forward this information to the competent authority without delay in writing or by electronic means. In the event of a change of a body authorised for representation, a managing partner and, where applicable, a managing limited partner, the person operating the betting brokerage agency shall provide without delay evidence that an application pursuant to paragraph 2, second sentence, number 1 has been submitted to the competent supervisory authority for the respective person who is being added.

(5) The person operating the betting brokerage agency shall designate the person who manages the betting brokerage agency and can be regularly found on the premises. The first sentence of paragraph 2, or in the case of legal persons or partnerships, paragraph 3, shall apply *mutatis mutandis* to this person.

(6) The license is to be initially granted for a period of five years and, otherwise for a period of seven years. The competent authority can set a shorter period in justified cases.

(7) Permission may be revoked without prejudice to the grounds for revocation pursuant to § 49 of the Provincial Administrative Procedure Act if

1. conditions subsequently arise which would justify a refusal of the application for a license referred to in paragraph 1;
2. if the person holding the license to whom the license is granted has the license withdrawn, or
3. the person operating the betting brokerage has committed serious or repeated breaches of obligations under this Act, the State Treaty of Gambling as amended or the permission granted.

(8) Permission to operate a betting agency may not be sold or transferred to third parties for use.

(9) Doubts as to the reliability of the person operating the betting brokerage agency arise in particular where the betting brokerage agency is operated without permission and an application for license is made only after action is taken against it, or if, despite a request, documents are not submitted in full within a reasonable time.'

21. § 20b(3) is worded as follows:

'(3) The placement of sports bets on or in the immediate vicinity of sports facilities or other facilities that are regularly used for sporting competitions that constitute sporting events on which bets can be made under the 2021 State Gambling Treaty shall be prohibited.'

22. § 20c is amended as follows:

a) Paragraph 1 sentence 2 shall read as follows:

'This must be ensured by a complete and permanent entry check, in which an identity determination within the meaning of § 8(3) of the State Treaty on

Gambling 2021 takes place and a comparison with the central exclusion file across the forms of gambling pursuant to § 23(1) of the State Treaty on Gambling 2021 is carried out.'

b) Paragraph 2 is worded as follows:

'(2) Where sports bets are offered in the betting brokerage office which are also offered on the internet by a person holding a license whose sports bets are marketed or brokered in the betting brokerage office, the bets made by players in the betting brokerage office shall be entered into their gambling account in accordance with § 6a of the State Treaty on Gambling 2021, provided that such an account has been set up for them. With the exception of the case referred to in § 21a(4) sentence 2 of the State Treaty on Gambling 2021, the payments made for these bets shall not be offset against the deposit limit pursuant to § 6c(1) of the State Treaty on Gambling 2021. At the request of the players, these printouts showing the payments to the account shall be made available or transmitted in electronic form.'

c) In paragraph 6, the word 'concession' is replaced by 'permission'.

d) In the second sentence of paragraph 7, the word 'concession' is replaced by 'license'.

23. § 20d is amended as follows:

a) In the heading and in paragraph 2, the word 'advertising' shall be replaced by the phrase 'outdoor advertising'.

b) The following sentence is added to paragraph 2:

'§ 5 The State Treaty on Gambling 2021 must be observed.'

24. § 20e is repealed.

25. § 20g is amended as follows:

a) Paragraph 1 is amended as follows:

aa) In the first sentence, the word 'concession' is replaced by the word 'license' and after the word 'may' the words 'until 30 June 2024' are inserted.

bb) In the fifth sentence, the comma is deleted after the words '§ 20d(1) to (3)' and the words '§§ 20e and 20f' are replaced by the words 'and § 20f'.

cc) In the seventh sentence, the words 'centrally managed' are replaced by the words 'central, across the forms of gambling' and the words 'State Treaty on Gambling' are replaced by the words 'State Treaty on Gambling 2021'.

b) In the second sentence of paragraph 2, the following sentence is added:

'§ 20a(2), second sentence, point 1 shall apply on the proviso that a simple certificate of good conduct, which may be no older than three months, must be presented.'

26. § 22 shall be worded as follows:

§ 22

Permission to organise a totaliser

An license pursuant to § 1 of the Rennwett- und Lotteriegesetz [Race Betting and Lottery Act] of 25 June 2021 (BGBl. I p. 2065), in the current version, may only be granted without prejudice to § 27 State Treaty on Gambling 2021 and the provisions of federal law enacted on the basis of the Race Betting and Lottery Act if compliance with the following is ensured:

1. the requirements for the protection of minors pursuant to Article 4(3) of the State Treaty on Gambling 2021;
2. the internet prohibition in § 4(4) of the State Treaty on Gambling 2021, without prejudice to the provisions in § 27(2) sentence 2 of the State Treaty on Gambling 2021;
3. the advertising restrictions pursuant to § 5(2) to (7) of the State Treaty on Gambling 2021;

4. the requirements for the social concept pursuant to § 6 State Treaty on Gambling 2021; and

5. the requirements for information on addiction risks under Article 7 of the State Treaty on Gambling 2021.

§ 2 Paragraphs 5 to 7 of Section 1 and paragraph 8 shall apply.'

27. § 23 shall be worded as follows:

'§ 23
Bookmaker's license

Without prejudice to § 27 State Treaty on Gambling 2021 and the provisions of federal law enacted on the basis of the Race Betting and Lottery Act, a licence pursuant to § 2 of the Rennwett- und Lotteriegesezt, as amended, may only be granted if compliance with the following is ensured:

1. the requirements for the protection of minors pursuant to Article 4(3) of the State Treaty on Gambling 2021;

2. the internet prohibition in § 4(4) of the State Treaty on Gambling 2021, without prejudice to the provisions in § 27(2) sentence 2 of the State Treaty on Gambling 2021;

3. the advertising restrictions pursuant to § 5(2) to (7) of the State Treaty on Gambling 2021;

4. the requirements for the social concept pursuant to § 6 State Treaty on Gambling 2021; and

5. the requirement for information on addiction risks under § 7 of the State Treaty on Gambling 2021 is ensured.

§ 2 Paragraphs 5 to 7 of Section 1 and paragraphs 8 and 9 shall apply.'

28. In § 24(1), the word 'for' after the word 'and' is deleted and the words 'Article 1 § 9a(2) sentence 1(3) First State Amendment Treaty on Gambling' are replaced by the

words '§ 9a(1)(3) of the State Treaty on Gambling 2021'.

29. In § 25, the words '§§ 4 to 7' are replaced by '§ 4 and § 7'.
30. In § 26(1), the words 'First State Amendment Treaty on Gambling' are replaced by the words 'State Treaty of Gambling 2021'.
31. In the second sentence of Paragraph 27(1), the words 'Article 1(1) First State Amendment Treaty on Gambling' are replaced by '§ 1 State Treaty on Gambling 2021'.
32. § 28 shall be amended as follows:
 - a) In point 1 of the third sentence of paragraph 2, the words 'of the applicant' are replaced by the words 'of the person making the application'.
 - b) Paragraph 5 is amended as follows:
 - aa) In sentence 1, the words 'Article 1(1) First State Amendment Treaty on Gambling' are replaced by '§ 1 State Treaty on Gambling 2021'.
 - bb) Sentences 2 and 3 are worded as follows:

'In the event that no suitable person can be found, the tender shall be cancelled. Exceptionally, on the basis of a new call for tenders in accordance with the conditions laid down in paragraph 2, a license for a single site may be granted, if otherwise the objectives of § 1 cannot be achieved.'

33. § 29 shall be worded as follows:

'§ 29

Operation of public casinos

- (1) Guests under 21 years of age and excluded persons are not allowed to stay at the casino during gaming operation. This must be ensured by a complete and continuous entry check, in which the personal details of the guests are determined

and compared with the centrally managed exclusion file across the forms of gambling in accordance with § 23(1) of the State Treaty on Gambling. Persons employed at the casino or an ancillary operation of the casino must be of legal age. For employees or apprentices under the age of 21, special measures should be provided for in the social concept. This group of people must be supervised in particular. Employees of the tax authorities of legal age who visit the casino for the purpose of training or further training are allowed access. In exceptional cases, the supreme gambling authority may allow other persons under the age of 21 to visit the casino.

(2) Direct or indirect participation in the games is not permitted for the following:

1. persons for whom this would obviously jeopardise their own necessary maintenance or the fulfilment of maintenance obligations;
2. persons responsible for the management of the casino, as well as shareholders and members of institutions of the casino,
3. persons employed at the casino or an ancillary operation of the casino;
4. persons charged with supervising the casino or determining and collecting the casino levy or other services; or
5. persons within the meaning of paragraph 1, sentences 6 and 7.

(3) The casino shall be kept closed on the following days:

1. Good Friday;
2. All Saints' Day;
3. Day of Prayer and Repentance;
4. Sunday of commemoration of the dead;
5. Remembrance Day;
6. Christmas Eve and the first day of Christmas.

On special occasions, the supervisory authority may order the casino to remain closed on certain other days.

(4) In a casino, it shall be appropriately ensured that the current time is visible in the gaming areas.'

34. § 32 shall be amended as follows:

a) Paragraph 4 is amended as follows:

aa) In the second sentence, the words 'may be transmitted' are replaced by the word 'are'.

bb) In the second sentence, point 3, the full stop at the end shall be replaced by a comma and the words 'to be transmitted' shall be added.

b) In paragraph 5, the words 'the concerned' are replaced by the words 'the person concerned'.

35. § 33 shall be amended as follows:

a) Paragraph 5 is worded as follows:

'(5) The tariff-based casino levy referred to in paragraphs 1 to 3 shall be reduced by the value added tax due and paid in accordance with the VAT Act on the basis of transactions resulting from the operation of the casino. A surplus of input tax payments in a pre-declaration period over the VAT due reduces the eligible VAT amounts of subsequent registration periods. A surplus in the turnover tax declaration for the calendar year in the trader's benefit compared with the total advance payments increases the casino levy if the surplus amount has been collected. In the case of tax groups within the meaning of the VAT Act, sentences 1 to 3 shall apply mutatis mutandis to amounts taken into account by the parent company.'

b) After paragraph 7, the following paragraphs 7a-7c are inserted:

'(7a) Uncollected balances on slot machines shall be attributable to the gross game earnings.

(7b) Money tokens that are found inside and in the environment of the casino and cannot be assigned to any player shall be attributable to the gross game earnings.

(7c) Sums of cash found in the gaming areas of the casino which cannot be assigned to a player shall be attributable to the gross game earnings.'

c) Paragraph 9 is worded as follows:

'(9) Game losses of a gaming day shall be offset against the gross game earnings of the current calendar month.'

36. § 37 shall be worded as follows:

'§ 37 Tax obligations, due dates

(1) The person holding the permission is obliged to determine the gross profit or loss of the gaming day immediately after the end of the games and to make records thereof. The gross game earnings or game loss shall be determined and recorded separately according to individual tables and individual devices. If a daily device-related determination and recording of the gross game earnings in relation to the security gain is too burdensome for slot games, another appropriate procedure may be permitted with the consent of the tax office responsible pursuant to § 38(1).

(2) The person holding the authorisation shall, at the latest on the 15th day of the calendar month, calculate the casino levy for the preceding calendar month in accordance with § 33 and the further services referred to in § 34(2) number 1 and submit notifications using the official form. The levy shall be due on the day on which the filing period ends.

(3) The person holding the license shall pay for each calendar month a pro rata advance payment on the profit levy in accordance with § 34(2)(2) of the amount which they are expected to owe for the current financial year. They shall submit to the Tax Office, by the 15th day of the calendar month at the latest, an advance declaration for the preceding calendar month in accordance with the official form, in which the advance payment on the profit levy shall be calculated themselves. The advance payment is due on the day on which the pre-registration period ends.

(4) By 30 June of the following year, the person holding the license must submit a tax return on the profit levy in accordance with § 34(2)(2) of the last year, in which they have to calculate the tax to be paid themselves (tax declaration). If the tax differs from the sum of the preliminary declarations, the difference shall be due in favour of the tax office one month after receipt of the tax declaration. If the tax office assesses the tax differently from the tax declaration for the calendar year, the difference shall be due in favour of the tax office one month after the notification of the tax notice. The due date of late advance payments pursuant to paragraph 3 shall remain unaffected by the second and third sentences.

(5) The applications to be submitted pursuant to paragraphs 2 to 4 shall be signed by a person entitled to represent the person holding the authorisation. The tax declaration may also be transmitted by means of remote data transfer according using the officially prescribed dataset, if use of this is permitted.

37. The following § 6a is inserted after § 39:

‘§ 6a
Taxation of online casino games

§ 39a
Subject of tax

Online casino games within the meaning of § 3(1a) sentence 2 of the State Treaty on Gambling 2021 are subject to the online casino game tax if they are organised within the scope of this Act. This is the case if the player has their registered domicile within the meaning of § 6a(2) sentence 1 of the State Treaty on Gambling 2021 within the scope of this Act at the time of the performance of the acts necessary for the creation of the game contract.

§ 39b
Benchmark

(1) The online casino gaming tax is calculated on the basis of the gross game earnings within the meaning of § 33(6)(1).

(2) Game losses of a gaming day are to be offset against the gross game earnings of the current calendar month.

§ 39c
Tax rate

In the calendar month, the online casino game tax for a taxable base calculated pursuant to § 39b is 15 percent up to EUR 300 000, 20 per cent for the amount exceeding EUR 300 000 and 25 percent of the amount for the amount exceeding EUR 750 000 of the taxable base pursuant to § 39b.

§ 39d
Person liable for tax

The person liable for tax is the organiser of the online casino game. The organiser is the person who implements the planned execution of the entire company themselves or by others and thereby decisively defines the gaming process.

§ 39e
Tax generation

The online casino gaming tax is due at the end of the calendar month during which the online casino games were conducted. An online casino game has been conducted when the wins and losses have been determined.

§ 39f
Tax declaration and payment

(1) The person liable to pay the tax must report the online casino gaming tax for each calendar month (reporting period).

(2) Until the 15th day after the end of each reporting period, the person liable for payment must submit a personally signed tax return to the competent tax office pursuant to § 39i in accordance with the official form in which they must calculate the online casino game tax for the reporting period themselves. The tax declaration may also be transmitted by means of remote data according to the officially prescribed dataset, provided that access to this is provided. The Online Casino Game Tax is due on the day on which the reporting period ends.

§ 39g
Tax representative

(1) If the organiser of the online casino game does not have their domicile, habitual residence, place of management or registered office in a Member State of the European Union or a State party to the Agreement on the European Economic Area, they must appoint a tax representative or a tax representative in Federal Republic territory to the competent tax authority.

(2) Tax representatives may be anyone who have their domicile, habitual residence, place of management or registered office in the territory of the Federal Republic, whose tax reliability does not give rise to concern and who, to the extent that they are obliged to do so under the Commercial Code or the Tax Code (AO), regularly maintains commercial books and draws up annual accounts in good time.

(3) The tax representative shall fulfil the obligations laid down in this Act for the organiser as if they were their own obligations.

(4) The tax representative owes the tax in accordance with § 39a in addition to the person liable for tax (collectively liable).

(5) § 123 The Tax Code remains unaffected.

§ 39h

Record-keeping obligations

(1) For each online casino game, the person liable to pay tax is obliged to keep records for the determination of the online casino gaming tax and the basis for its calculation. If a tax representative is designated in accordance with § 39g, the organiser shall transmit to him the records referred to in sentence 1 on a monthly basis.

(2) In particular, the records must show:

1. The name and registered residence (§ 39a sentence 2) of the player;
2. the gross game earnings;
3. the amount of online casino game tax; and
4. the access options provided for participation in the online casino game.

§ 39i

Responsibility for taxation of online casino games

The online casino game tax is managed by the tax office Karlsruhe-Durlach. By ordinance of the Ministry of Finance, jurisdiction may be transferred to another tax authority.

§ 39j

Notification obligation for the organisation of online casino games

Anyone who organises online casino games must notify the competent tax office in accordance with § 39i immediately:

1. name;
2. business;
3. place of residence, habitual residence, place of management or headquarters;
4. date of commencement of the game operation; and
5. access options provided for participation in the online casino game.

§ 39k

Application of the provisions of the Tax Code

The provisions of the Tax Code shall apply mutatis mutandis to the online casino gaming tax, unless otherwise stated in this Act.

§ 39l

Online casino game tax review

(1) In order to ensure that the online casino game tax is evenly determined and levied, the officials entrusted by the competent tax authority with the administration of that tax are authorised to enter, without prior notice and outside of an external audit, the properties and business premises of persons allowing participation in the online casino game during business and working hours in order to determine matters that may be relevant to taxation (online casino game tax review).

(2) Insofar as it is useful to establish a tax issue, the persons concerned by the online casino game tax review shall, at the request of the official entrusted thereto, provide records, books, business documents and other documentation relating to the facts relevant to the online casino game tax review. If the documents referred to in sentence 1 have been prepared with the help of a data processing system, the officials responsible for the online casino game tax review may, upon request, view the stored data on the data related to the online casino game tax review and, if necessary, use the data processing system for this purpose.

(3) A transfer may be made to an external audit pursuant to § 193 Tax Code without prior examination order within the meaning of § 196 of the Tax Code, if the findings made in the online casino game tax review give rise to this. The transfer to the audit must be made in writing.

(4) If, on the occasion of the inspection, facts are established which may be relevant to the determination and collection of taxes other than those provided for in this Act, the assessment of the findings shall be permitted insofar as awareness of these may be relevant for the taxation of persons referred to in paragraph 1 or of other persons.

38. In § 40 sentence 1, the abbreviation '(GewO)' shall be inserted after the words 'Trade, Commerce and Industry Regulation Act'.

39. § 41 shall be amended as follows:

in paragraph 1, the words 'of the Trade, Commerce and Industry Regulation Act' are replaced by the abbreviation '(GewO)' and the words 'Article 1 § 24(1) First State Amendment Treaty on Gambling' are replaced by '§ 24(1) State Treaty on Gambling 2021'.

Paragraph 2 is worded as follows:

‘(2) The authorisation shall be refused if the conditions laid down in § 2(1)(3)(2) and (3) are not met, or

1. the grounds for refusal referred to in § 33c(2)(1) or 33d(3) of the GewO [Trade, Commerce and Industry Regulation Act] are present;

2. the conditions laid down in § 42 are not met,

3. a social concept pursuant to § 7 in conjunction with § 43(2) is not presented;
4. the operation of the arcade arises concern about danger to young people, excessive exploitation of the gambling urge, harmful environmental influences within the meaning of the Federal Immission Protection Act or other unreasonable disruption to the general public, neighbours or an institution existing in the public interest.'

40. § 43 Paragraph 1 sentence 2 shall read as follows:

'This must be ensured by means of admission checks in which the personal details of the guests are determined and cross-checked with the central exclusion file across the forms of gambling pursuant to § 23(1) of the State Treaty on Gambling 2021.'

41. § 44 shall be amended as follows:

- a) In the heading, the word 'advertising' is replaced by the words 'outdoor advertising'.
- b) Paragraph 2 is amended as follows:
 - aa) The word 'advertising' is replaced by the words 'outdoor advertising'.
 - bb) The following sentence is added to paragraph 2:

'§ 5 The State Treaty on Gambling 2021 must be observed.'

42. § 45 is repealed.

43. § 47 shall be worded as follows:

'§ 47
Responsibilities;

(1) As the gambling supervisory authority within the meaning of § 3(1), the Karlsruhe Government Presidium is responsible for the implementation of the State Gambling Treaty 2021 and this Act as well as for the exercise of specialist supervision in the cases referred to in paragraph 2 and the third sentence of § 13(3), unless otherwise

provided in this Act or the State Treaty on Gambling 2021; this also applies to games of chance which are not expressly regulated in the State Treaty of Gambling or in this Act, as well as to offers whose classification as gambling has not yet been clarified. The supreme gambling supervisory authority is the Ministry of the Interior, unless otherwise specified in the following provisions.

(2) If the event is limited to the municipal territory, the local police authorities are responsible for monitoring generally permitted events pursuant to § 15(1) and for receiving the notification pursuant to § 15(3) sentence 2. If the event extends to the territory of several municipalities, the district police authority is responsible. In addition, the local police authorities are involved in the implementation of § 9(1) of the State Treaty on Gambling 2021. In the case of § 15(2) sentence 1 point 1, the district police authority in whose district the organiser has its headquarters is responsible. The competent authority may issue orders on the nature and extent of the cooperation of the local police authorities in general or on a case-by-case basis.

(3) The Karlsruhe Government Presidium is responsible for the implementation of the Race Betting and Lottery Act and for the provisions of federal law adopted on its basis, insofar as these are not tax law provisions and unless a uniform procedure is to be carried out in accordance with § 27(2) sentence 2 of the State Treaty on Gambling 2021. The supreme supervisory authority is the Ministry of Land Affairs.

(4) The Ministry of the Interior is responsible for issuing casino licenses. The Karlsruhe Government Presidium is responsible for the task of supervising the casinos.

(5) The competent authorities for the implementation of the provisions of the State Treaty on Gambling 2021 and this Act applicable to arcades are the lower administrative authorities as well as the municipalities and administrative communities with their own building rights competence, unless the State Treaty of Gambling 2021 provides otherwise. Their rights of information and inspection are governed by § 29 of the GewO. The technical examination of the social concepts for arcades as well as updates to the social concepts are carried out by the Karlsruhe Government Presidium. The supreme supervisory authority is the Ministry of Economic Affairs.

(6) The competent authority within the meaning of the first sentence of paragraph 1 shall regularly, and a minimum of once a year, carry out on-the-spot checks on betting brokerage bodies and in addition to measures taken by the competent

authorities pursuant to paragraph 5, sentence 1, also on arcades. For this purpose, they are entitled to the information and inspection rights under § 29 of the GewO. The findings made on the occasion of the checks on arcades shall be communicated to the competent authority pursuant to paragraph 5, first sentence, as well as to the respective regional government headquarters, in order to enable them to take measures if necessary.

(7) Administrative proceedings by the competent authorities under previous law pending upon the entry into force of this Act shall continue until the final or final conclusion of the proceedings.

(8) If the State Treaty on Gambling 2021 expires pursuant to § 35(8) of the State Treaty on Gambling 2021 or if the latter is terminated by the Land Baden-Württemberg in accordance with § 35(4), sentence 2 of the State Treaty on Gambling 2021, the Karlsruhe Government Presidium shall be responsible for the granting of licenses limited to the territory of the Land in accordance with § 9a(1) and § 19(2) of the State Treaty on Gambling 2021.'

44. § 48 Paragraph 1 is amended as follows:

a) The words 'acts unlawfully' are replaced by the words 'without prejudice to the regulation in § 28a State Treaty on Gambling 2021 acts unlawfully'.

b) In point 6, the words 'Article 1 § 9(1), third sentence, point 1 of the First State Amendment Treaty on Gambling' are replaced by the words '§ 9(1), third sentence, point 1 of the State Treaty on Gambling 2021'.

c) Point 7 is worded as follows:

'7. contrary to point 4 of the third sentence of paragraph 9(1) of the State Treaty on Gambling 2021, fails to comply with enforceable prohibition orders of the competent authority as a party to the payment transactions, in particular as a credit or financial service institution'.

d) In point 8, the words 'Article 1(17) First State Amendment Treaty on Gambling' are replaced by '§ 17 State Treaty on Gambling 2021'.

e) In point 11, the words 'Article 1(19) First State Amendment Treaty on Gambling'

are replaced by '§ 19 State Treaty on Gambling 2021'.

- f) Points 12a and 12b are inserted after point 12:

'12a. as an obliged party within the meaning of § 8(3) of the State Treaty on Gambling 2021, has not joined the central exclusion file across the forms of gambling,

12b. as an obliged party pursuant to § 8(3) of the State Treaty on Gambling 2021 contrary to § 20c(1) sentence 2, § 20g(1) sentence 7, § 29(1) sentence 2 and § 43(1) sentence 2, does not carry out the comparison with the exclusion file.'

- g) Point 13 is worded as follows:

'13. as an obliged party under § 8(3) of the State Treaty on Gambling 2021, contrary to § 4(1) of the State Treaty on Gambling 2021, fails to immediately enter self-exclusion or third-party exclusion pursuant to § 8a of the State Treaty on Gambling 2021 into the central exclusion file across the forms of gambling pursuant to § 23(1) of the State Treaty on Gambling 2021 or fails to inform the person affected by the exclusion of the registration or fails to immediately forward an application for the lifting of the exclusion to the body responsible for keeping the exclusion file, pursuant to § 8b of the State Treaty on Gambling 2021.'

- h) Point 14 is worded as follows:

'14. as an obliged party under § 8(3) of the State Treaty on Gambling 2021, contrary to § 8(2) of the State Treaty on Gambling 2021, allows players excluded in games of chance who are not covered by the second sentence of paragraph 8(2)(2) of the State Treaty on Gambling 2021 to participate in games of chance.'

- i) In point 14c, the words 'within the meaning of sentence 1' are inserted after the word 'betting terminals' and the words 'within the meaning of sentence 2' are inserted after the word 'advertising terminals'.
- j) In point 17, after the word '§ 20c(1)', the words ', § 29(1) sentence 2' are inserted.
- k) Point 18 is repealed.

l) Point 31 is repealed.

45. § 49 shall be worded as follows:

‘§ 49

Power to adopt legislative ordinances

The Ministry of the Interior is authorised to adopt, by means of a statutory ordinance, provisions concerning a change in the number of betting terminals pursuant to § 13(1), insofar as it is necessary to achieve the objectives of 1 § 1 State Treaty on Gambling 2021.

46. § 51 shall be worded as follows:

‘§ 51

Transitional arrangements

(1) § 33i of the Trade Code shall be applicable for the issue of licenses for undertakings pursuant to § 40 sentence 1 for the last time until the entry into force of the Land Gambling Act in the version of the announcement of 28 November 2012. In other respects, the Trade Code and the Gaming Ordinance and the provisions adopted on the basis of these, as amended, shall continue to apply.

(2) For the operation of an existing arcade for which a license under § 33i of the GewO was applied for by 18 November 2011 and subsequently granted, an additional license pursuant to § 41 is required after 30 June 2017. If the license was applied for pursuant to § 33i of the Trade Code after 18 November 2011 and subsequently granted, a license under § 41 is already required after 30 June 2013. In the case of sentence 1, the application for license shall be submitted by 29 February 2016, in the case of sentence 2 by 28 February 2013. Irrespective of this, a licence requirement under § 41 occurs in the event of a change of the person holding the license.

(3) § 42 Paragraph 3 shall apply only to arcades for which, at the time of the entry into force of the Land Gambling Act in the version of the announcement of 28 November 2012, a licence pursuant to § 33i of the Trade Code has not yet been

granted.'

47. § 52 is repealed.

48. § 53 is repealed.

Article 2 Re-announcement

The Ministry of the Interior, Digitalisation and Local Authorities may publish the wording of the Act amending the Land Gambling Act in the version in force at the time of publication with a new sequence of clauses and eliminate discrepancies in the wording.

Article 3 Amendment of the Fees Ordinance of the Ministry of the Interior.

The Annex (Fees List) to the Fees Ordinance of the Ministry of the Interior of 12 July 2011 (GBI. p. 404), as last amended by Article 1 of the Ordinance of 18 January 2023 (GBI. p. 3) is amended as follows:

1. Point 14 is worded as follows:

14. Gambling according to the State Treaty on Gambling 2021 (State Treaty on Gambling 2021) and the Land Gambling Act (Land Gambling Act)

14.1 Permissions and Consents

| | | |
|--------|--|--|
| 14.1.1 | Permission to organise lotteries and draws out pursuant to Article 1 § 4(1) in conjunction with § 10(2) State Treaty on Gambling 2021 and §§ 2 and 10(1) Land Gambling Act | 1.5 Per thousand of the gambling capital, no more than EUR |
|--------|--|--|

Gambling capital is the total amount of the estimated stakes during the license period, minus the lottery tax. If the license is granted for several years, the due date of the fees may be distributed over the years. A linear distribution is

permitted.

| | | |
|----------|---|------------|
| 14.1.2 | Organisation of lotteries with lower risk potential | |
| 14.1.2.1 | license to organise lotteries with lower risk potential pursuant to § 4(1) in conjunction with § 12 State Treaty on Gambling 2021 and § 15(1) Land Gambling Act 75-100 000 | |
| 14.1.2.2 | Consent to the implementation of savings bonds by a third party (savings bond association) pursuant to § 30(2) sentence 3 of the State Treaty on Gambling 2021 in conjunction with point IV.2 of the general permission for public lotteries and draws in the form of savings bonds of 5.11.2021 (published in GABl. point 11, p. 484 of 24.11.2021) 25-50 000 | |
| 14.1.3 | License for the operation of a betting terminal pursuant to § 13 of the Land Gambling Act | 20-1 000 |
| 14.1.4 | Licence for lottery receipts (§ 19(2) of the Land Gambling Act) and the points of sale of lottery collectors (§ 19(4) of the Land Gambling Act) and for commercial gaming brokerage (§ 18(1) of the Land Gambling Act) | 50-100 000 |
| 14.1.5 | Modifications and extensions for granted permissions | 20-10 000 |
| 14.1.6 | Permission for the conditions of participation for the organisation of a game of chance as well as for the modification of the conditions of participation pursuant to § 2(6) of the Land Gambling Act | 100-1 000 |

| | | |
|--------|---|--------------|
| 14.1.7 | Permission to operate a betting brokerage agency pursuant to § 20 of the Land Gambling Act | 50-100 000 |
| 14.1.8 | Amendment and extension of a license for a betting brokerage agency pursuant to § 20 of the Land Gambling Act | 20-5 000 |
| 14.1.9 | Authorisation of another Land to grant a license pursuant to §§ 4 and 12(3) sentence 2 of the State Treaty on Gambling 2021 | 50-5 000 |
| 14.2 | Revocations | |
| 14.2.1 | Revocation of permission granted in accordance with §§ 2 and 10 of the Land Gambling Act (lotteries or draws) | 1 000-10 000 |
| 14.2.2 | Revocation of a licence for the operation of a betting terminal | 20-1 000 |
| 14.2.3 | Revocation of a licence for a lottery agency and for commercial gaming brokerage | 50-1 000 |
| 14.2.4 | Revocation of a license to operate a betting brokerage office | 500-25 000 |
| 14.3 | Prohibitions | |
| 14.3.1 | Prohibition of the operation of a betting terminal | 50-1 000 |
| 14.3.2 | Prohibition of activities as a lottery agency as well as for commercial game mediation | 500-25 000 |
| 14.3.3 | Prohibition of unauthorised gambling (organisation, conduct, mediation and participation including advertising) pursuant to § 9 (1) sentence 3 numbers 3 and 4 of the State Treaty on Gambling 2021 | 200-100 000 |

| | | |
|--------|--|-----------------------------|
| 14.3.4 | Prohibition of the operation of a betting brokerage office | |
| 14.5.5 | Measures and orders within the framework of the supervision according to § 31 of the Land Gambling Act | 500-25 000 50-5 000 |
| 14.4 | Control of compliance with the protection of minors numbers 1 and 2 of the State Treaty on Gambling 2021 and due to authorisations, examinations, deliberations, prohibition orders, enforcements under the Land Gambling Act | |
| 14.6 | Orders pursuant to Article 1 § 9(1) sentence 3 of the Land Gambling Act in conjunction with § 9(1) State Treaty on Gambling 2021), including | 100-5 000 |
| 14.5 | Casinos by natural or legal persons governed by private law, in a betting terminal, betting brokerage | |
| 14.5.1 | Permission for a casino agency, point of sale of a lottery collector, arcade, restaurant or horse betting shop | 20 000-100 000 |
| 14.5.2 | Permission for an overall concession | 50 000-250 000 100-1 000 |
| 14.5.3 | Amendment to the game rules | 25-10 000 |
| 14.7 | Permission for gaming equipment hardware and software of the correct implementation of the online casino offer by means of evaluation of the stored data on the safe server | 25-10 000 100-150 000 |

Article 4 Entry into force

This Act shall enter into force on the day following its announcement.

Stuttgart, on

The Government of the State of Baden-Württemberg:

Explanatory statement

A. General part

1. Initial situation, reason and purpose of the law

With the State Treaty on the new regulation of gambling in Germany, which entered into force on 1 July 2021 (State Treaty on Gambling 2021; GlüStV 2021) the Länder have established a uniform follow-up regulation for the State Treaty on Gambling in Germany (State Treaty on Gambling; GlüStV) in the version of the Third State Amendment Treaty on Gambling, which was in force since 1 January 2020, which was limited until 30 June 2021. The Land Gambling Act (Land Gambling Act) was last adapted by the Act amending the Land Gambling Act to align with the Third State Treaty on Gambling. In particular, the regulations for betting brokers have been adjusted after the restriction on the number of licences for sports betting operators was dropped and a licensing procedure was introduced for them.

The State Treaty on Gambling 2021, which maintains the objectives of the State Treaty on Gambling which entered into force on 1 July 2012, improved enforcement possibilities, in particular through additional tools and facilities (e.g. transfer of responsibility for the implementation of illegal cross-border offers on the internet to a central authority, introduction of a so-called 'white list' of authorised providers, extended legal basis for the already possible payment suspension and internet blocking). At the same time, however, previously banned forms of play on the internet (virtual slot games, online poker and online casino games) have also been allowed in order to provide a legal alternative to the illegal offers for players attracted to gambling and to steer the demand for these gaming offers into legal channels.

The bundling of tasks is maintained. The previous approaches, uniform across the Länder, are supplemented by approaches for virtual slot games and online poker. The responsibility will remain with the individual Länder only for online casino games. In doing so, they must decide in accordance with § 22c(1) of the Gaming State Treaty 2021, if they wish to use the option whether to

1. organise the online casino games themselves, have them organised by a legal entity under public law or by a private company in which legal entities under public law are significantly involved, be it directly or indirectly, or
2. Issue one concession or at most a maximum of as many concessions as could be

awarded to casinos within the meaning of § 20 of the State Treaty on Gambling 2021, in accordance with the respective casino law of the Land as at 17 January 2020. If a Land wants to make use of this possibility, then the legal basis must be established in Land legislation.

The purpose of this Act is to create the legal basis necessary for online casino games, as well as to adapt the Land Gambling Act to the 2021 State Treaty on Gambling and to implement the newly-created enforcement possibilities, as far as they require legislative Land regulation.

II. Main content

In particular, the draft Act is intended to transpose § 22c of the State Treaty on Gambling 2021 into Land law and create the legal basis for online casino games, including their taxation. This is intended to provide an alternative to the existing black market to persons wishing to gamble whose demand cannot be channelled into less dangerous forms of play, in which the current protective measures against gambling addiction, manipulation and other fraudulent activities are actually implemented, so that controlled gambling is made possible in an orderly manner.

Although no statements can be made as to the extent to which persons residing in Baden-Württemberg participate in illegal casino games on the internet, it can be seen from the observation of the entire German market that the share of online casino games in the illegal market is declining, but is the largest share after sports betting.

| Annual report | Total volume of the illegal market (EUR millions) | Percentage of online casino games in the unregulated market | Gross player stakes in online casino games (EUR millions) | Increase or decrease in gross game earnings compared to the previous year (EUR million) |
|---------------|---|---|---|---|
| 2015 | 2,270 | 51 | 1,165 | + 430 (58 %) |
| 2016 | 2,558 | 50 | 1,290 | + 125 (11 %) |
| 2017 | 3,184 | 55 | 1,760 | + 469 (36 %) |
| 2018 | 2,634 | 38 | 1,002 | - 757 (- 20 %) |
| 2019 | 2,207 | 23 | 514 | - 488 (- 49 %) |
| 2020 | 1,568 | 30 | 477 | -37 (-7 %) |
| 2021 | 740 | 59 | 433 | -44 (-9 %) |

The data come from the annual reports of the gambling supervisory offices of the Länder from 2015 to 2021.

There is no evidence that the gambling behaviour of the people in Baden-Württemberg is noticeably different from that of the entire population.

In order to be able to make a safe offer to the players wishing to gamble and to channel them into the legal market, the possibility of § 22c State Treaty on Gambling 2021 is to be used in Baden-Württemberg in the form of a monopoly solution (§ 22c(1)(1) of the State Treaty on Gambling 2021). The monopoly solution has the advantage that the Land ensures a legal offer where it also has control over effective player and youth protection. This would not be the case to the same extent with a concession solution.

Up to now, there have been no adequate rules for the taxation of online casino games. As a result of online casino games now being permitted, a regulation on taxation is now required. The draft Act aims to ensure appropriate taxation of online casino games.

In order to improve enforcement, it is clarified that the employees of the gambling

supervisory authorities may perform test games and test purchases to prove that illegal gambling is offered in Baden-Württemberg without becoming guilty of participating in illegal gambling.

In addition, regular monitoring of betting shops and arcades is to be ensured, as these are essential for the coherence of gambling regulations and the preservation of the lottery monopoly. In particular, the necessary legal bases are to be created to ensure that controls of arcades can also be carried out by persons employed at the Karlsruhe Government Presidium, which is responsible for gambling supervision across the Land and who charge fees for their activities.

III. Alternatives

An amendment to the Land Gambling Act must be made in any case, as the State Treaty on Gambling which entered into force in 2012, is no longer the reference standard, which is now the State Treaty on Gambling 2021.

Re online casino games

If the citizens of the state of Baden-Württemberg are to be offered a secure alternative to the illegally offered online casino games and the existing interest in this type of game is to be channelled into legal channels, the possibility of § 22c(1) State Treaty on Gambling 2021 must be used. It can be assumed that otherwise people residing in Baden-Württemberg will continue to play with illegal providers who do not comply with the necessary measures to protect the players. Apart from the fact that they are thereby liable to punishment, it will hardly be possible to explain why similar games can be played legally in other Länder, but not in Baden-Württemberg.

§ 22c(1) of the State Treaty on Gambling 2021 gives the Länder the choice between a monopoly solution, as is used in the present case, and a concession solution, whereby the number of concessions for the online casino offer is limited to the number of terrestrial casino concessions that could be awarded as of 17 January 2020. In Baden-Württemberg, a maximum of one concession for the online casino game could be awarded.

At its meeting of 9 March 2021, subject to the entry into force of the State Treaty on Gambling 2021, the Council of Ministers decided to make use of § 22c of the State Treaty on Gambling 2021 in the form of the monopoly solution, as it has the advantage that the

Land ensures a legal offer, in which it at the same time has control over effective protection of players and minors. This would not be the case to the same extent with a concession solution. This would also require a Europe-wide tender for the concession to be awarded, so rapid implementation would not be expected.

In addition, the influence on a state-owned company, which is to be entrusted with the task, is different from that of a private company. The experience with the state-owned Toto-Lotto GmbH shows that regulatory directions are implemented quickly and without legal disputes. This is required to a greater extent in online casino games, which are considered to have a significantly higher addictive potential than lotteries.

Risks of manipulation in online casino games are mainly assumed by the organiser, who participates in the game as a banker. Although they are subject to a random business risk, they also have control over the course of the game and the proper functioning of all facilities (e.g. the random generator). The organiser has both an incentive and the possibility to carry out manipulations at the expense of the players. Effective monitoring is therefore essential. This is best ensured by a monopoly provider, in which not only gambling supervisory methods are applied, but, for example, supervision in the context of participation can also influence the conduct of business.

Online casino games in Baden-Württemberg are to be taxed. The local basis is given if the player has their registered residence in accordance with § 6a(2) sentence 1 of the State Treaty on Gambling 2021 within the scope of this Act at the time of the necessary actions. The online casino game tax is based on the gross game earnings (game stakes minus the payouts to the players). A tiered tax rate should be used to maximise profit recovery. At the same time, the tax rate is intended to ensure that the organiser of the online casino game retains a sufficient entrepreneurial profit according to the principles of economic viability. The online casino game tax is designed as a registration tax. The tax debtor is the organiser.

Measures to improve supervision

In particular, the employees of the Karlsruhe Government Presidium, which is responsible for the supervision of gambling law throughout the Land, shall be able also to carry out test games and test purchases which are not recognisable as measures of gambling supervision. For this purpose, in accordance with the second sentence of paragraph 9(2) of the State Treaty on Gambling 2021, they shall be permitted to participate in legal transactions under a permanently altered identity (alias). For this purpose, appropriate

documents should be produced, procured and used and required entries in registers, books or files can be made. For the persons carrying out the test purchase or the test game, gambling should not be regarded as unauthorised gambling, i.e. it should be clarified that the authorities' staff are not considered to be participating in unauthorised gambling (§ 285 of the Criminal Code) during the test game or when buying a test.

Test games and test purchases are necessary for investigative reasons for the supervision of permitted providers as well as in enforcement against organisers and intermediaries of unauthorised gambling. To prove illegal gambling on the internet, some courts not only require that sites of the provider are available in Germany, but also that these sites can also be played from Germany. Without the possibility of test games, action against providers that offer their games in Germany without permission will rarely be successful.

Since effective supervision of the permitted offers and the successful action against illegality are prerequisites for obtaining the lottery monopoly, these instruments cannot be dispensed with for reasons of coherence. In addition, the regulation is necessary to protect the officers in charge of supervision from prosecution.

In order to ensure effective gambling supervision, it is also essential that local permanent establishments are regularly checked, in particular independent of suspicion. Regular monitoring of the venues which are in the area of competence of the Karlsruhe Government Presidium is not possible with the number of staff there, so the responsible unit has up to now depended on the support of the municipal regulatory offices or the police. However, the supervisory areas in the municipalities in turn often have insufficient human resources to take on this responsibility in addition to the controls incumbent on them.

Control activity in the municipalities is also very variable with regard to arcades, as the field study by Jürgen Trümper, chairman of the working group against gambling addiction, shows on the topic of illegal gambling. Since inadequate controls would have a negative impact on the preservation of the lottery monopoly, it shall be made possible to carry out further, event-independent controls in addition to the checks carried out by the local authorities. To this end, the rules governing jurisdiction in the area of arcades will be supplemented.

Alternatively, it could be stipulated that all arcades must be checked at least once a year. This would, however, interfere with local self-government law with the consequence that

compensation would have to be provided for this. Moreover, the minimum annual control obligation would, in all likelihood, affect the employees who are already overburdened, since it is not expected that an annual control obligation on the local arcades would result in additional staff being allocated to the offices responsible in the municipalities, in particular if they are small municipalities with only a few arcades and where the checks would not justify any significant additional staffing.

It is more effective and cost-efficient to transfer the controls of arcades together with the controls of betting brokerage bodies to a special unit, which systematically carries out on-the-spot checks and levies from the controlled (cost-covering) fees. The results of the checks shall be forwarded to the competent authorities so that they can take further action if necessary.

Since the Land has its own interest in carrying out those checks, because they constitute an essential building exclusion for ensuring coherence, it is justified not only to make the offer to carry out inspections for the municipality, which might then be rejected for reasons of local policy with regard to the revenue from the entertainment tax, but also to grant the Land its own control right in addition to the existing municipal controls and to assign the task in this regard to the Karlsruhe Government Office in order to enable it to be combined with the control tasks for betting brokers.

The possibility of bundling the controls of betting brokerage bodies with those of the arcades presupposes that the competent body is able to carry out checks to the extent necessary, both in terms of personnel and factually. Even if controls are desirable from now on, this is not feasible with the current personnel and material equipment. The provision of human and financial resources is the responsibility of the budgetary legislature within the framework of the respective plan, taking into account the budgetary framework.

IV. Public budget costs (excluding compliance costs)

Re measures to improve supervision

For the implementation of the requirements in § 47(6) of the Land Gambling Act, the establishment of a control group to be set up at the Karlsruhe Government Presidium is envisaged. The following cost estimate is based on 13 members of the control group. One staff member (Managerial staff grade A 11) is envisaged for the central coordination of the control group. The remaining 12 staff members (Managerial staff grade A

9 including staff on-costs) will carry out the annual checks of the permitted 1 760 venues (approx. 1 200 arcades and 560 betting brokerage points) in the four administrative districts. A control team, consisting of 3 people, will be deployed for each administrative district. The calculation is based on the fact that for a total of 1 760 venues distributed among the 4 control groups each, 440 venues would have to be controlled annually. At around 220 working days a year, it would therefore take 2 checks per day and control team to check all venues. This seems realistic to implement.

The annual personnel costs (indicative rate, pension funds, flat-rate support including personnel-related material costs in the form of the flat-rate material costs amounting to EUR 4,500 per post) are EUR 76 410 for a new A 11 post and EUR 69,310 for a new A 9 post with on-costs. Consequently, the 12 staff members (Managerial grade A 9 with on-costs) incur annual personnel costs of EUR 831,720. The total therefore results in annual personnel costs of EUR 908,130.

In addition, there are the task-related special costs of EUR 123,150 in the first year after the establishment of the control group and EUR 38,350 as ongoing annual costs. The task-related special costs result from one-off acquisition costs in the first year following the establishment of the control group, such as the purchase of service vehicles, protective equipment, automatic readers, laptops and training costs, as well as ongoing special costs, such as fuel and repair costs of service vehicles.

For the new service vehicles to be purchased, costs in the amount of EUR 25,000 per vehicle are assumed. It is assumed that recourse to the existing fleet of the Karlsruhe Government Presidium will not be sufficient and that 3 additional service vehicles will have to be purchased. In total, one-off acquisition costs of EUR 75,000 are assumed.

Protection vests for the 12 members of the control group carrying out the on-the-spot checks are estimated at EUR 300 per protection vest, resulting in one-off acquisition costs for the control group of EUR 3,600 .

For the training of the 12 staff members of the control group required prior to the start of the activity, costs are estimated at EUR 250 per person and training course, so that total costs are incurred of EUR 3,000.

The technical equipment of the control teams requires a one-time purchase of one machine reader and one laptop per control team. For a laptop, a cost of EUR 600 and for one machine reader a cost of EUR 200 are assumed. Overall, therefore, costs of EUR

3,200 are to be expected.

Ongoing annual travel costs (including fuel and depreciation costs for wear and inspection) are estimated at EUR 35,200 . This calculation is based on the assumption that a corresponding number of official visits will be required for the annual control of the 1 760 venues. An average distance of 60 km for a simple route or 120 km for a round trip is to be expected. Travel costs of around EUR 20 per trip are assumed. Charges of EUR 3 150 per year are also to be expected, which consist of around EUR 150 motor vehicle tax and around EUR 900 insurance per vehicle per year.

The costs will be covered by means of fees. For the control of the venues, a new fee regulation is created in point 14.6 of the Schedule of Fees of the Fees Ordinance of the Ministry of the Interior. This provides for a fee framework of between EUR 100 and EUR 1 000. For the on-the-spot checks, an average fee of EUR 600 is assumed to be collected per venue to be controlled. This seems appropriate in view of the considerable scope of control audits independent of suspicion (verification of compliance with the player and youth protection regulations, requirements relating to proper play and the Money Laundering Act) as well as the resulting time needed (examination of gaming equipment and software, viewing of documents and ancillary rooms, conducting interviews with employees and management of the respective venue, taking pictures for evidence purposes, etc., including documentation, travel times as well as preparation and follow-up). It is assumed that a check will take at least two hours on site.

In the case of an average fee collection of EUR 600 per venue during of the annual control of the approximately 1,760 venues, fees will be collected of EUR 1,056,000 , so that the costs of the Land will be covered.

For the execution of test games and test purchases, which in addition to the on-site inspections can be used as optional supplementary supervisory measures or as part of the supervision of online casino games, the Karlsruhe Government Presidium as the competent supervisory authority is to have stake money available of EUR 3,000 per year. This amount is expected to be extracted from the revenue from fees of the control group after the first year of establishment of the control group.

| Financial year from the establishment | The following financial year | Remaining years of the financial plan |
|---|---------------------------------|---------------------------------------|
|---|---------------------------------|---------------------------------------|

| | | of the control group (at the earliest 2024) | | | | |
|-----------|---|---|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | Land | | | | | |
| | Total expenditure | 1,034,280 EUR | 949,480 EUR | 949,480 EUR | 949,480 EUR | 949,480 EUR |
| | of which personnel expenditure | 908,130 EUR | 908,130 EUR | 908,130 EUR | 908,130 EUR | 908,130 EUR |
| | Number of new positions required | 13 | | | | |
| | Task-related special costs of control group | 123,150 EUR | 38,350 EUR | 38,350 EUR | 38,350 EUR | 38,350 EUR |
| | Task-related special costs of test games and test purchases | 3,000 EUR | 3,000 EUR | 3,000 EUR | 3,000 EUR | 3,000 EUR |
| 2. | (Reciprocal) financing | 1,056,000 EUR | 1,056,000 EUR | 1,056,000 EUR | 1,056,000 EUR | 1,056,000 EUR |
| 3. | Structural additional cost/relief (Balance) | +21,720 (Relief) | +106,520 EUR (Relief) | +106,520 EUR (Relief) | +106,520 EUR (Relief) | +106,520 EUR (Relief) |

Re the organisation of online casino games

Pursuant to § 6i(2) of the State Treaty on Gambling 2021, the organisers of online casino games are obliged to set up and operate a technical system (safe server) at their own expense, which correctly collects all the data necessary for the performance of gambling supervision, stores them digitally in read-only form and enables electronic control at any time, including direct access by the competent supervisory authority.

As part of the control of the planned online casino offer by the Land of Baden-Württemberg, it is intended to use the already existing GGL safe server evaluation system, as this is a more cost-effective solution compared to a new design of the Land's own evaluation system. The existing GGL evaluation system is currently being used for monitoring sports betting on the internet, virtual slot games and online poker and would only have to be slightly modified for the expansion to the online casino games.

The considerations on financing are still at an early stage. According to the current

estimate, the basic cost of the online casino game evaluation system is expected to amount to a medium five-digit amount, which will be distributed pro rata among the Länder that wish to use the evaluation system to monitor the online casino games that they organise.

As seven Länder are currently interested in using it, one-off basic costs of an estimated EUR 7 000-8 000 would be incurred for the state of Baden-Württemberg. If additional Länder are added, corresponding compensation will be made.

In addition, there are ongoing operating costs. This is based on one staff member of the GGL (Managerial grade A 11) to carry out the evaluation for the Länder using the system. This is expected to involve annual personnel costs (including personnel-related material costs in the form of the flat-rate material costs of EUR 4,500) of EUR 76 410, which will be transferred to the participating Länder in accordance with the Königsteiner Key, taking into account the respective licenses granted. As a result, an annual cost of around EUR 10 000 for the state of Baden-Württemberg is currently to be expected.

The Land provides GGL with an annual reimbursement. Half of the reimbursement is to be paid twice a year as an advance payment

It is foreseen that the Karlsruhe Governmental Presidium, responsible for online casino gaming, will cover the costs of monitoring in the amount of approximately EUR 17 500 in the first year from the date of granting of permission and EUR 10,000 for the following years for fees or expenses in the same amount of the State Toto and Lotto GmbH, so that reciprocal financing is covered. For this purpose, a new fee regulation is created in point 14.7 of the Annex Fees Schedule of the Fees Ordinance of the Ministry of the Interior. The implementation of the measure is thus neutral in budgetary terms.

| | | Financial year from the granting of permission for online casino games (expected 2024) | The following financial year | Remaining years of the financial plan | | |
|----|--|--|------------------------------|---------------------------------------|--------------------------|--------------------------|
| 1. | Land Total expenditure | around EUR 17 500 | approximately EUR 10 000 | approximately EUR 10 000 | approximately EUR 10 000 | approximately EUR 10 000 |
| 2. | (Reciprocal) financing | around EUR 17 500 | approximately EUR 10 000 | approximately EUR 10 000 | approximately EUR 10 000 | approximately EUR 10 000 |
| 3. | Structural Additional cost/relief (balance) | none | none | none | none | none |

Re Specialist Centre for Gambling Addiction

In order to emphasise the importance of gambling addiction, a new specialist centre for gambling addiction is to be set up at the State Office for Addiction Issues of the Liga der freien Wohlfahrtspflege Baden-Württemberg e.V., for which a full-time position will be created and funded on the basis of the Tariff Table 13 of the Collective Agreement of the Länder. This results in annual personnel costs of EUR 83,100 including flat-rate material costs.

In addition, task-related special costs, e.g. for training and public relations, of EUR 30,000 are to be expected. In total, there are therefore annual costs of EUR 113,100.

The costs fall within the responsibility and budget area of the Ministry of Social Affairs. The financing of support for addiction assistance and addiction prevention measures is set out in Chapter 0922 Title GR. 75. Whether and to what extent additional funds will be granted for the establishment of the specialised centre for gambling addiction and its financing must be decided in the context of a forthcoming budget statement.

| | | Financial year from the establishment of the centre | The following financial year | Remaining years of the financial plan | | |
|----|--|--|---------------------------------|---------------------------------------|-------------|-------------|
| 1. | Land Total expenditure | 113,100 EUR | 113,100 EUR | 113,100 EUR | 113,100 EUR | 113,100 EUR |
| | of which personnel expenditure | 83,100 EUR | 83,100 EUR | 83,100 EUR | 83,100 EUR | 83,100 EUR |
| | Number of new positions required | | | | | |
| | | | | | | |
| 2. | (Reciprocal) financing | | | | | |
| | | | | | | |
| 3. | Structural Additional cost/relief (balance) | 113,100 EUR | 113,100 EUR | 113,100 EUR | 113,100 EUR | 113,100 EUR |

V. Compliance costs

No longer apply as there is no longer an obligation to calculate.

VI. Budget controlling

The budget controlling department was not involved with the cabinet proposal. It is the case that 13 posts for the implementation of the control group are expected to be required for the implementation of the control group in relation to the measure to strengthen implementation. However, the measure does not lead to additional expenditure as it is fully financeable by charging fees. The materiality threshold is thus overall not reached.

VII. Key results of the sustainability check The strengthening of implementation results in a positive channelling effect, which also has benefits in preventing addiction. Consequently, the Act amending the Land Gambling Act indirectly has an impact on the target area of 'well-being and satisfaction'.

VIII. Regulatory impact assessment

It can be assumed that the Act amending the Land Gambling Act by the measures to strengthen enforcement enables effective action against illegal gambling, so that gambling can be transferred into orderly and legal channels. A positive channelling effect is also expected as a result of the offer of online casino games by the state for Baden-Württemberg. This is accompanied by better player protection, which will, inter alia, have effects on the emergence of gambling addiction and its consequences and side effects.

IX. Outcome of the public consultation

B. Individual justification

Re Article 1 – Amendment to the Land Gambling Act

Re 1. § 1

With the entry into force of the State Treaty on Gambling 2021 on 1 July 2021 and the expiry of the State Amendment Treaty on Gambling, the Land Gambling Act (LGLüG) must be adapted to the new legal basis. The content does not result in any changes.

Re 2. § 2

Adaptations to the new legal basis have become necessary in paragraphs 1 to 3 and 5. In terms of content, this does not result in any changes to the current legal situation.

The amendment to § 2(1) sentence 1 serves to clarify that, in addition to the organisers of lotteries, sports betting or horse betting, operators of arcades or casinos are to be regarded as organisers. The same applies to the insertion that a written application is required.

The previous points 2(c) concerning compliance with the advertising restrictions pursuant to Article 1 § 5 of the First Amendment Treaty on Gambling were deleted, as the advertising restrictions referred to therein arise directly from § 5 of the State Treaty on Gambling 2021.

The amendment to § 2(1), third sentence, point 3 is a consequence of the amendment to

paragraph 1, second sentence.

The fact that the organisers and intermediaries of public games of chance have to participate in the exclusion system and that the exclusion of excluded players must be ensured is directly apparent from the State Treaty on Gambling 2021 (§ 8 State Treaty on Gambling 2021) and therefore does not need to be repeated in the Land Gambling Act. The previous points 4 to 6 in the second sentence of paragraph 1 could therefore be deleted.

The amendment to paragraph 1, sentence 8, specifies the objectives up to now. Even if all the conditions are met, a license shall only be granted if the organisation or mediation is not contrary to the objectives of the State Treaty on Gambling 2021. This takes better account of the importance of the objectives of the State Treaty. According to the previous wording, the objectives were subject to discretionary assessment.

The previous § 2(2), which regulated permission for direct sales and mediation of lotteries as well as the organisation and mediation of sports betting on the internet, has been deleted without replacement, since the regulations contained arise directly from § 4(4) and (5) of the State Treaty on Gambling 2021 and do not have to be repeated in the Implementing Act.

The inclusion of sentence 3 in paragraph 3 is intended to ensure that in the case of offers for which a exclusion file reconciliation must take place pursuant to § 8 of the State Treaty on Gambling 2021, the start of operation only takes place when not only the application for connection to the exclusion file has been made, but the connection has actually been made and has also been put into operation. Since the authorising authority does not have the control of when the applicant is actually connected and it is not appropriate to delay the processing of the application until the connection has actually taken place, the licensing authority is to ensure, through a corresponding ancillary provision, that the obligation laid down in § 8 of the State Treaty on Gambling 2021 is fulfilled.

After the limit file has been set to the deposit limit and not the stake limit (for the reasons see explanatory memorandum to § 6c of the State Treaty on Gambling 2021), an adjustment to the second sentence of paragraph 5 was required. As the third sentence of paragraph 5(1) of the State Treaty on Gambling 2021 requires the license to lay down content and ancillary provisions for the design of advertising for public gambling, this has been expressly included as the possible content of the authorisation notice. The power to extend further provisions arises from § 28 of the State Treaty on Gambling 2021.

The reliability of the organiser and the persons managing a betting brokerage, arcade or other local point of sale for gambling offers is a prerequisite for ensuring a lawful offer. Reliability must be ensured not only when the application is submitted, but throughout the duration of the license. It is true that, pursuant to Paragraph 4d(1)(1) of the State Treaty on Gambling 2021, the holder of a licence for sports betting, online poker or virtual slot games is obliged to inform the competent authority without delay of any change in the circumstances relevant to the granting of the license, so that all the conditions for the license can be monitored on a permanent basis. However, this applies equally to offers other than sports betting, online casino games and virtual slot games. To clarify this, paragraph 9 has been added.

Re 3. § 3

Adaptations to the new legal basis have become necessary in paragraphs 1, 3, 5 and 6. In terms of content, this does not result in any changes to the current legal situation.

§ 3 was adapted to the 2021 State Treaty on Gambling. In addition to the editorial adjustments, changes in cooperation at Land level in particular had to be taken into account. Under the new State Treaty, the creation of the GGL has led to a centralisation of the performance of the cross-state tasks. The GGL, and no longer individual Länder, are responsible for them. This also has an impact on Land law regulations.

Thus, the second sentence of paragraph 1 expressly provides that the gambling supervisory authorities shall support the GGL and the office located there, as well as the body responsible for maintaining the exclusion file. This amendment is a consequence of the establishment of the Joint Gambling Authority of the Länder to which the competences for uniform procedures have been transferred, and the consequent elimination of the Gambling Council. The obligation to provide support also applies in the case of § 27p(12) of the State Treaty on Gambling 2021. In order to avoid that employees of the gambling supervisory authorities are injured during on-the-spot checks, the new paragraph 4 provides that they must not only themselves be trained in control (content, procedure, self-protection) but must also be equipped with appropriate protective equipment. The protective equipment includes rubber gloves, disinfectants and, for example, protective vests. On-the-spot checks are essential to ensure that legal requirements are met in the operation of gambling venues. Employees must also be equipped in such a way that a check can also be carried out meaningfully. In addition to a laptop, this includes, for example, devices for reading information from machines.

The first sentence of paragraph 5 expressly states that supervisory measures are to be taken even if gambling subject to a license is organised or brokered without permission. The same applies to prohibited gambling.

§ 9 Paragraph 2a of the State Treaty on Gambling 2021 contains an explicit State Treaty legal basis for official test purchases and games, which are further specified in paragraphs 6 to 8. Test games and purchases are not only necessary to verify – as before – compliance with the protection of minors in the case of permitted gambling, but also for the detection of unauthorised gambling. The authority to test games and purchases is limited to participation in existing public gambling offers, e.g. by purchasing lottery tickets, placing bets, playing online casino games or virtual slot games or purchasing customer cards. No influence may be exerted on the intentions of the organiser or the intermediary of the gambling beyond the acceptance of such offers.

False specifications about the person may be used in these measures to the extent that such specifications – for example for the opening of a player account on the internet – are essential in order to carry out the test purchase or the test game. It is therefore clarified that the responsible employee of the supervisory authority may participate in legal transactions under an alias. This is essential for effective supervision of offers on the internet. If test games and test purchases were always made with a gaming account set up for the authority or under the name of an employee of the authority, organisers or intermediaries could easily recognise the supervisory action as such and, for example, design program procedures in such a way that unauthorised gambling is only not available through these gaming accounts or that participation in the respective game of chance is prevented.

For the construction and maintenance of the alias, the necessary documents (e.g. passport or identity card) may be produced and modified. Without such a regulation, the responsible employees with incorrect personal information would not be able to regularly set up game accounts that are necessary for a test game or test purchase.

The inclusion of this authority also removes the basis for the view sometimes expressed in the context of previous legislation that corresponding measures fulfil the conditions of the criminal offence laid down in § 285 of the Criminal Code and creates legal certainty. For the person carrying out the test purchase or test game, the game of chance is not considered to be an illegal game of chance. In the exercise of regulatory jurisdiction in the field of gambling, the scope of the administrative criminal provision of § 285 of the Criminal Code, the scope of which is determined by the relevant administrative

provisions, is thus limited, since the execution of test purchases or games for control purposes is essential in order to ensure effective gambling supervision. The criminal liability of the provider pursuant to § 284 of the Criminal Code remains unaffected.

Paragraph 7 expressly allows the competent supervisory authority also to commission third parties to carry out test games or purchases. Since it is necessary to use minors in order to verify whether the requirements for the protection of young people are complied with, this is also expressly made possible. However, for the protection of minors, the requirements for the protection of the juvenile testers used must be complied with.

Since some of the courts do not consider it sufficient for sites to be accessible and gaming accounts to be created on the internet, but also require proof that the offer can actually be used, the supervisory authorities must also have resources at their disposal to actually play. Otherwise, the instrument would be ineffective. Paragraph 8 is intended to ensure this.

Paragraph 9 expressly stipulates, in the form of § 9(3a) of the State Treaty on Gambling 2021, that data obtained from test purchases or games may be issued to the competent tax authority at their request, if this is necessary for the conduct of proceedings in tax matters.

Re 4. § 4

§ 8 to § 8d State Treaty on Gambling 2021 regulates the central cross-game exclusion system. In particular, the State Treaty provides that arcades and restaurants in which slot machines are installed must now also be connected to the exclusion system. All intermediaries and organisers must enter exclusions in the exclusion file themselves. The previous provision of § 4(3) that intermediaries must submit exclusion applications to the legal person responsible for carrying out the state gambling is thereby obsolete. An amendment to the previous § 4 is therefore necessary in order to implement the new State Treaty provisions.

In accordance with paragraph 1, the exclusion must be entered immediately. This is intended to protect the person applying for the exclusion.

Pursuant to paragraph 8a(3) of the State Treaty on Gambling 2021, the person concerned must be given the opportunity to comment before the entry of a third-party exclusion. This is necessary because the application for the registration of a third-party

exclusion can also be misused. This leads to the fact that between the application for the registration of a third-party exclusion or the observations of the organiser, the intermediary or their staff, that the person concerned is at risk of gambling addiction or excessive debt, does not meet their financial obligations or risks betting disproportionately to their income, it may be several days until the person is actually excluded. During this period, the person concerned may be excluded from the terrestrial game operation in accordance with paragraph 2 by exercise of proprietary rights. On the other hand, (premature) entry in the exclusion file is not possible. This also serves the protection of the person affected. On the one hand, the person to be excluded can clarify the facts, so that possibly no registration may take place. On the other hand, the person is protected, at least locally, by the exclusion from the place of play against the dangers arising from gambling.

The reference to § 23(6) of the State Treaty on Gambling 2021 in paragraph 3 makes it clear that the person entering the exclusion bears the responsibility under data protection law for the personal data.

Paragraph 4 refers to the obligation to pay. This serves as a clarification.

Re 5. §§ 5 and 6

Although the State Treaty on Gambling 2021 adheres to the previous basic concept of the exclusion file, it extends the scope of application to arcades and restaurants and provides that intermediaries can now enter exclusions themselves. Reference is made in detail to the provisions on the exclusion file in §§ 8 et seq. of the State Treaty on Gambling 2021. Against this background, § 5, which deals with the central exclusion file of the Land, for which there is no longer any need, and § 6, which provided for regulations for the time before the central exclusion file is put into operation, are obsolete and must be deleted.

Re 6. § 7

Paragraph 2 shall be adapted to the new legal basis. In terms of content, this does not result in any changes to the current legal situation.

Paragraph 1 now clarifies that it is not sufficient to develop and update the social concept. The social concept must also be implemented.

In the State Treaty on Gambling 2021, the previous Annex 'Guidelines for preventing and

combating gambling addiction' was incorporated into the treaty text in modified form, so the reference in paragraph 1 sentence 5 needed to be adapted.

The adaptation of the wording of the first and second sentences of paragraph 2 is the consequence of the amendment of § 6(2) of the State Treaty on Gambling 2021. The persons to be trained are specifically designated by the reference to § 6(2) State Treaty on Gambling 2021. For savings bond associations, the persons to be trained are limited to those responsible for implementing the social concept in the respective bank, since, on the one hand, savings bonds are a form of gambling that has only a low risk potential, and on the other hand, there are additional control obligations in banks that also serve to protect customers.

The amendment to the fourth sentence of paragraph 2 is intended to clarify, first, that not only the listed aspects should be the subject of the training, but that other aspects can also be included in addition. On the other hand, training should not be carried out by providers themselves, in order to avoid conflicts of interest from the outset.

The requirement that staff must be trained no later than 3 months after the start of work is added to paragraph 2. This serves to protect players.

In order to protect the players, it is necessary that the staff employed in the venues are able to detect signs of problematic misconduct in order to intervene. With a single training course, it is hardly possible to ensure this. Training content must be refreshed and practised on a regular basis. The sixth sentence of paragraph 2 therefore provides for retraining after two years. This also ensures that employees are informed about more recent findings in the area of addiction.

In order to demonstrate compliance with the training obligation and to enable verification by the competent supervisory authority, evidence of the training to be submitted to the gambling supervisory authority is required in accordance with paragraph 2 sentence 8 of the State Treaty on Gambling 2021. Since a 2-year reporting obligation is provided for in § 6 (2) sentence 3, point 10 of the State Treaty on Gambling 2021, the previous annual reporting obligation in paragraph 3 is changed into a two-year reporting obligation.

The regulation of the new paragraph 5 is intended to make it easier to find help when players or the relatives of players consider gambling behaviour problematic. The provision of assistance for gambling addiction is the responsibility of the federal states. Accordingly, there are many different aid offers nationwide, most of which are only

available for individual federal states or regions. In addition, there are a few nationwide offers, which do not however represent the entire range of assistance options. It is in fact not possible for online gambling providers to link the entire range of help to their websites. In addition, gambling providers repeatedly refer to offers of help that are only partially independent, as these are operated directly or indirectly by gambling providers. The state coordinators have therefore developed a homepage for mediation to independent advisory services at state and federal level. At least these should be linked to. Further links, e.g. to the side of the Federal Centre for Health Education, are also permitted.

Re 7. § 7a

The 2021 State Gambling Treaty includes qualitatively and quantitatively increasing requirements for the addiction assistance system and addiction prevention in the field of gambling. In particular, as a result of the opening up of the online gambling market, the addiction experts expect a significant increase the number of cases of people with problematic and pathological gambling behaviour and all the associated consequences. In addition, the complexity of the regulations has increased significantly through the State Treaty on Gambling. There is also a lack of scientific knowledge, in particular about the effects of the new regulations. The increased need for legal and professional addiction expertise should be taken into account by setting up a Land agency for gambling addiction. The State Office for Addiction Issues of the League of Free Welfare Care e.V. has admittedly already carried out these tasks. Gambling addiction is, however, an addiction among many others considered there. Specialisation is required in order to better address the increased risks resulting from the further opening of the market to various forms of gambling on the internet and to meet the specific needs and problems of gambling addicts or those at risk of gambling addiction. This is ensured by the establishment of the specialist centre for gambling addiction. Many other federal states have also provided appropriate specialist centres for gambling addiction.

The specialist centre for gambling addiction shall in particular provide technical and coordinating support for the actors in the prevention of addiction and addiction assistance. It is intended, among other things, to develop and implement concepts in the field of prevention and intervention, including digital, as well as culturally and linguistically sensitive offers and access to advice, to train professionals and continuously promote their advice skills as well as competences for the training of staff in gambling establishments in accordance with § 7. The centre is intended to develop scientific findings and support their transfer into practice and policy. With the State Coordinator for Digitalisation, it is intended that it should network with addiction assistance and

corresponding specialist centres in the other Länder. The specialist centre shall also provide information on gambling addiction and conduct public information work.

The specialist centre will be located at the Land Office for Addiction Issues of the League of Free Welfare Care Baden-Württemberg e.V. (LSS). The LSS, as an association of the sponsor organisations in the prevention of addiction and addiction assistance, is the appropriate body for this purpose. It should continue to deal with gambling addiction.

The specialist centre for gambling addiction should work without mandate and be technically independent.

The competences governed by the Land Gambling Act (e.g. technical examination of social concepts by the Karlsruhe Government Presidium) should remain unaffected. Independence in relation to gambling providers must be ensured.

Re 8. § 8

The amendment to § 2(1) sentence 2 (see Article 1, 2. a) declared that operators of casinos and arcades are also organisers within the meaning of the Act, so the previous wording has to be adapted.

Re 9. § 9

Adaptations to the new legal basis have become necessary in paragraphs 1, 2 and 4. In terms of content, this does not result in any changes to the current legal situation.

Since sports betting licenses are granted uniformly across Länder, this type of gambling had to be deleted in the previous paragraph 2 sentence 1. The newly-added opportunity to offer online casino games was included in their place.

In accordance with § 22c(1)(1) of the State Treaty on Gambling 2021, the new paragraph 5 establishes the legal basis for the Land to be able to offer online casino games in the territory of Baden-Württemberg by means of a monopoly solution. Reference is made to A. III. and to the explanatory notes to § 22c State Treaty on Gambling 2021 as regards the reasons why the Land intends to make use of the option set out in § 22c(1)(1) of the State Treaty on Gambling 2021 and why the monopoly solution was chosen.

Given the comparability of the risk potential of online casino games with online poker and

virtual slot games, it is appropriate to provide for comparable conditions for granting a license. As with virtual slot games and online poker, the specific design of the offer must be regulated within the scope of permission.

By applying § 22a(1) of the State Treaty on Gambling 2021, the individual online casino games are subject to an additional reservation on permission. This ensures that the respective game complies with the requirements of the Gambling State Treaty 2021 and that it is not contrary to the objectives of the State Treaty. At the same time, it is clarified that illegal gambling is present even if the organiser has a license but the respective specific offer has not been authorised. Unauthorised online casino games in this sense are also those for which the organiser had originally been granted permission, but subsequently made substantial changes that were in turn not allowed.

By the reference to § 22a(3) sentence 1, algorithm-based control of the odds of winning, for example in order to motivate certain players to participate further in the game through certain winnings or to assign losses to players with large amounts in their gaming accounts, is prohibited. Sentences 2 to 4 of § 22a(3) of the State Treaty on Gambling 2021 contain additional information obligations for reasons of player protection, which should correspondingly also apply to online casino games. Whether there is an easy access and an easy-to-understand description within the meaning of sentence 2 shall be decided by the authority in the authorisation procedure referred to in paragraph 1 with regard to the understanding of an average player. The display of the probability of the maximum winnings according to sentence 3 cannot be replaced by showing the probability of a win (including small wins). However, the organiser is not prevented from reporting them in addition, as long as this does not involve any misdirection that would be contrary to the objectives of § 1 State Treaty on Gambling 2021. Such a case will in any case arise if a 100% chance of winning is shown, if it is intended to mean that a portion of the bet is 'reclaimed' in each round of the game, whereas such a design in fact means (partial) losses. § 22a(3) sentence 4 of the State Treaty on Gambling 2021 makes it clear that it is not sufficient to provide the information in the context of a separate website that may be difficult to find. However, the display does not have to be shown on the button that starts participation; presentation on the page of the game participation is sufficient.

The reference to § 22a(4) of the State Treaty on Gambling 2021 ensures that only sequentially running games are permitted. After the end of a game (cf. §§22a(6) sentence 2), a new declaration of intent by the player to participate in the following game is required. As sentence 2 makes clear, in particular, so-called automatic processes in which players can determine that a certain number of games are played in sequence are

prohibited. The prohibition of such automatic functions also applies if they provide for a possibility that continued automatic participation will be suspended upon occurrence of certain events (e.g. reaching a certain profit or loss limit). This ban is intended to contribute to conscious participation in gaming and in particular to reduce the addiction and financial risks of participation in online casino games. This also reduces the event frequency because players have to press a button again after completing the previous game.

By referring to § 22(5) of the State Treaty on Gambling 2021, there is an obligation to show bets and winnings only in Euros and cents. This complements the second sentence of Paragraph 6b(1) of the State Treaty on Gambling 2021. This serves to protect the player, who can thus gain a better overview of their playing behaviour than over more abstract units such as points or other currencies. At the same time, designs that allow point games within the scope of a game of chance that are not subject to immediate restrictions are to be prevented in online casino games.

The reference to § 22a(6), second sentence, of the State Treaty on Gambling 2021 also leads to a reduction in the frequency of events for the individual player. It therefore protects players and reduces addiction, since the continuation of the game requires a declaration of will of the player and is not triggered automatically, thus interrupting the flow of the game. This serves to encourage conscious gambling.

The reference to § 22a(8) of the State Treaty on Gambling 2021 excludes game designs in which the multiple of the bet as a win varies in the course of the game and is therefore not recognisable for the player before participating in the game. Different winning levels with different multipliers are possible. The decisive factor for the calculation of the winnings must always be the bet. Sentence 2 regulates the jackpot ban. The State Treaty on Gambling does not provide for explicit limitations on the amount of the winnings. However, the competent authority must also examine the design of the profit opportunities in accordance with the first sentence of paragraph 22a(1)(1) of the State Treaty on Gambling 2021 and refuse permission if this is contrary to the objectives of § 1. These goals may also run counter to the design of games that offer or envisage significant opportunities for winning.

By referring to § 22a(9) of the State Treaty on Gambling 2021, game breaks of at least five minutes are inserted if the player was actively connected for 60 minutes in accordance with § 6h of the State Treaty on Gambling 2021. The game break is dependent on the form of the game. Participation within the break in another banker

game than the one previously played is therefore not permitted. As soon as the indication of the past activity duration of one hour (§ 6h(7) sentence 3 State Treaty on Gambling 2021) is shown, it is not possible to continue playing; however, the five-minute period only starts with the confirmation of the notice by the player. The break serves to reduce the event frequency and encourage more conscious gambling. It is also designed to make it easier for players to control their playing behaviour.

It follows from the wording 'further' participation that the break only applies if a participation in an online casino game has taken place within the hour preceding the notification of the notice pursuant to § 6h(7) sentence 2 State Treaty on Gambling 2021. This applies regardless of the frequency and time of participation within the last hour. A single participation within the last hour since the activation or since the last notice is therefore sufficient.

The possibility of limiting the maximum stake in paragraph 4a sentence 4 serves to reduce the risk of gambling addiction and, in conjunction with § 22a(8) of the State Treaty on Gambling 2021, the incentive to play. It also limits 'chasing' losses suffered by placing higher stakes in the next game. In addition, due to the limited stake, manipulation incentives are reduced.

The possibility of limiting the number of games satisfies the limiting mandate of § 1 of the State Treaty on Gambling.

In order to be able to make an offer that corresponds to that of illegal providers, sentence 5 enables the organiser to transfer banker games from terrestrial casinos as well as from other locations (e.g. film studios) and to open up participation on the internet. Without such games, there is a risk of failing to steer players from the illegal offers to the legal offer. The details must be regulated by the license. It must be remembered, for example, that the roulette tables must be checked.

If the organiser uses service providers, they must ensure that the service provider also meets the requirements for the organiser. This applies, for example, to the reliability of the service provider themselves or the verifiability of their offer.

Re 10. § 10

Adaptations to the new legal basis have become necessary in paragraphs 1 and 2. In terms of content, this does not result in any changes to the current legal situation.

By extending the permitted types of gambling, the additional conditions laid down in the State Treaty relating to individual types of gambling were to be included in the first sentence of paragraph 1.

The insertion of the words 'within the meaning of § 9(2)(1) and (2)' in the first sentence of paragraph 1(2) serves to clarify.

Unlike lottery products or Oddset, online casino games are not distributed through betting terminals. In order to comply with the limiting order, paragraph 1 sentence 1 number 3 specifies that the number of games offered must not be unlimited. The sales concept must contain statements on this.

Re 11. § 11

As a result of removing the sports bets and adding the online casino game as possible offers organised by the Land in accordance with § 9(1), § 11 must be adapted accordingly.

These are otherwise editorial adjustments (see A. III above).

Re 12. § 13

Paragraph 2 is adapted to the new legal basis. In terms of content, this does not result in any changes to the current legal situation.

Since the reduction in the number of betting terminals was completed by 30 June 2013, the second sentence could be deleted in paragraph 1.

The amendments to subparagraphs (aa) and (cc) in the third sentence of paragraph 3 are editorial amendments for clarification.

The amendment in paragraph 3 sentence 3 number 2 is a consequential change due to the amendment § 2(1).

Similarly to the consumption of alcohol, the consumption of water pipes can also affect the willingness to play. In principle, therefore, it should also be avoided that gambling takes place in an environment where the inhibition threshold can be reduced by providing water pipes. The amendment in paragraph 3, sentence 3, point 4 ensures that no

reception points are operated in so-called shisha bars. The regulation regarding restaurants is transferred to shisha bars in this respect.

Pursuant to paragraph 29(1), third sentence, of the State Amendment Treaty on Gambling, the joint sports betting offer of the organisers pursuant to § 10(2) and its mediation by reception points was considered admissible for one year after the granting of the concessions pursuant to § 10a of the State Amendment Treaty on Gambling in conjunction with Paragraph 4c. By paragraph 29(6) of the State Treaty on Gambling 2021, this possibility was now limited to 30 June 2024, so that a corresponding adjustment of paragraph 4 is necessary.

Re 13. § 14

This is an editorial amendment (see A. III above).

Re 14. § 15

Letter (a) is an editorial amendment (see A. III above).

Re letter (b):

The aim of the change is to take account of the fact that as a result of the greater mobility of people, they do not only move around in one rural or urban district and also maintain social contacts in neighbouring cities and counties. In particular, if clubs are located on the border with another district, it can be assumed that people from the neighbouring city or district are also interested in lotteries of the association, especially if they themselves are members of the association. The small spatial expansion does not change the character of a small lottery.

Re letter (c)

The small extension of the period during which the lottery can be offered does not change the nature of the lottery.

Re letter (d)

This is an editorial amendment (see A. III above).

Re 15. § 16

This is an editorial amendment (see A. III above).

Re 16. § 17

Re letter (a):

The amendment serves for clarification.

Re letter (b):

The change is intended to make it clear that not only traditional savings agreements can be combined with savings bonds, but also savings funds, for example. However, this change is not intended to give up the characteristic savings feature of savings bonds. Therefore, no high-risk classes can be allowed in savings funds.

Re 17. § 18

Paragraphs 1 and 4 are adapted to the new legal basis. In terms of content, this does not result in any changes to the current legal situation.

The amendment to the current text in the first sentence of paragraph 1 serves to clarify. Licences for commercial game brokers can only be granted by the competent Baden-Württemberg authority if they operate exclusively in Baden-Württemberg. Otherwise, permission is granted in the bundled procedure pursuant to § 19(2) of the State Treaty on Gambling 2021. This is to be clarified by the minor reformulation. In other respects this is an editorial amendment with consequential changes resulting from the amendment to § 2 (1) sentence 3.

The rewriting of paragraph 3 clarifies the obligation to forward at least two thirds of the sums collected by the game broker for participation in the game to the organiser and introduces a fixed date for sending evidence of the use of uncollected or undeliverable winnings.

The aim of the new paragraph 6 is to eliminate possible uncertainties. In the bundled procedure pursuant to § 19(2) of the State Treaty on Gambling 2021, the evidence documenting the proper transfer of at least one third of the amounts collected must also be provided. Commercial game brokers who have obtained a license under § 19(2) of the State Treaty on Gambling 2021 may also not operate local outlets.

Re 18. § 19

In accordance with § 9a(1)(1) of the State Treaty on Gambling 2021, licences for lottery collectors are granted exclusively by the central competent authority (from 1 January 2023 by the Joint Gambling Authority of the Länder), so that the previous regulation of § 19 is largely obsolete. However, points of sale of lottery collectors still require permission from the competent Baden-Württemberg authority, so regulations are still necessary.

Re 19. § 20

Re letter (a):

This is an editorial amendment (see A. III above).

Re letters (b) and (c):

This is a clarification and adaptation to the new State Treaty and is a consequence of the fact that the restriction on the number of organisers has been abandoned and an authorisation procedure is now being carried out instead of a tender procedure.

Re letter (c) (aa)

In betting shops, only the bets of one organiser may be mediated. Since advertising and the hunt for the best odds by comparing offers from different providers stimulate gambling, only advertising terminals that advertise the offers of the organiser whose bets are placed at the betting brokerage office are permitted. The insertion of the word 'exclusively' makes this clear.

Re letter (e):

The insertion serves to clarify.

Re 20. § 20a

The references in paragraphs 1, 2 and 4 shall be adapted to the new legal basis. In terms of content, this does not result in any changes to the current legal situation.

The insertion in the second sentence of paragraph 1 makes it clear that permission to operate a betting brokerage agency is not granted to the organiser, but to the person who actually operates the betting brokerage agency.

The betting brokerage agency is integrated into the distribution organisation of a provider. In order for the organiser to be aware of which betting brokerage refer bets to him, it is

mandatory that the provider must submit the application for a licence for the operation of a betting brokerage agency. The insertions eliminate possible ambiguities and clarify that despite this construction of the application, permission must be granted to the person who will operate the betting brokerage. The procedure thus corresponds to the procedure for the reception points pursuant to § 13.

The amendment to paragraph 1, second sentence, point 5 is a consequence of the amendment to § 2(1), third sentence.

Pursuant to paragraph 21(2) of the State Treaty on Gambling 2021, sports betting may not be located in a building or building complex in which a licensed arcade or casino is located. It follows from the explanatory memorandum to § 21(2) of the State Treaty on Gambling 2021 that an existing authorised betting brokerage agency does not have to close if an arcade or casino opens in the same building or building complex. The new sentence 3 in paragraph 1 is intended to make this clear. A fundamental prioritisation for arcades is neither intended by the State Treaty on Gambling 2021 nor by the Land Gambling Act.

The insertion in the second sentence of paragraph 2, point 5, is intended to clarify that it is not the organiser but the person who is to operate the betting brokerage that must make the declaration of commitment.

As a rule, the IT security concept is part of the security concept that needs to be presented. Given the importance of IT security for the handling of the game, the explicit mention of the IT security concept in paragraph 2, sentence 2, number 6 is required. This serves as a clarification.

In the second sentence of paragraph 2, point 7, the obligation to connect to the exclusion file is replaced by the obligation to prove the legal origin of the means necessary for the operation of the betting brokerage. Since the opening of a betting brokerage agency requires significant investment and is therefore of interest to 'investors' who wish to put funds obtained from criminal offences into circulation, it is necessary to demonstrate the legal origin of the necessary means in order to combat money laundering. There is no reason to treat the future operator here differently than the person to whom it mediates. The obligation to join the exclusion file arises directly from the State Treaty on Gambling 2021 (§ 8 of the State Treaty on Gambling 2021) and therefore does not require repetition in the Land Gambling Act.

The 2021 State Treaty on Gambling renders the previous provision of paragraph 6 obsolete. In accordance with paragraph 4c(1) p. 1 of the State Treaty on Gambling 2021, a limitation of the license is provided for, which, on the one hand, allows the authority to re-examine the person operating the betting brokerage agency and, on the other hand, also gives the person operating the betting agency sufficient time to pay off their investments.

Through the integration of the betting agency into the organisation of the organiser, the agency is bound by the fate of the organiser. If the organiser loses their permission, a central requirement for permission for the betting shop has therefore been omitted. The permission must in this case be revoked. This is stated in paragraph 7(2).

Re 21. § 20b

The changes are intended to clarify. A change in content is not associated with the new regulation.

Re 22. § 20c

Re letter (a):

This is an editorial amendment (see A. III above) and a clarification.

Re letter (b):

These are editorial changes (see A. III above) as well as clarifications of what is wanted. It should be clarified that the bets made at the betting brokerage office must be entered in the game account of the person concerned, but that these are not counted against the limit. Such recording must only be carried out for persons who also play on the internet. The recording enables better control of game behaviour, which ultimately serves the prevention of addiction and the protection of the player.

Re letters (c) and (d)

These are respective editorial amendments (see A. III above).

Re 23. § 20d

Re letter (a):

The provisions of § 5 of the State Treaty on Gambling 2021 also apply directly to betting

shops, which contain, inter alia, what was previously regulated in paragraph 2. It is to be clarified that outdoor advertising must not be directed to children and adolescents or to vulnerable players. This serves the special protection of these persons.

Re letter (b):

The insertion is intended to emphasise that § 5 State Treaty on Gambling 2021 also applies to and must be observed by betting shops.

Re 24. § 20e

Since the State Treaty on Gambling 2021 also provides for the connection to the exclusion file and the registration of the exclusions by the operators for betting shops, the previous provision needed to be deleted.

Re 25. § 20g

Re letter (a):

§ 29 Paragraph 6 of the State Treaty on Gambling 2021 provides for the possibility that sports betting in the form of betting on results may be marketed only until 30 June 2024 and not permanently offered in the reception points of the organisers pursuant to § 10(2) of the State Treaty on Gambling 2021. In other respects, this is an editorial amendment.

Re letter (b):

The reference to § 20a(2), second sentence, point 2 was accidentally omitted. There is no reason to treat reception point operators differently. In order to be able to assess the reliability of the person who operates the reception point and is responsible for the mediation of the sports betting, the presentation of a simple certificate of conduct is necessary, but also sufficient.

Re 26. § 22

The references in § 22 are adapted to the new legal basis. In terms of content, there are no changes to the current legal situation

Re 27. § 23

The references in § 23 are adapted to the new legal basis. In terms of content, there are

no changes to the current legal situation

It follows directly from § 2(5) in conjunction with §§ 8 and 23 of the State Treaty on Gambling 2021 that organisers and intermediaries of horse betting are also obliged to make a exclusion comparison. The previous provisions of sentence 1 points 2 to 4 could therefore be deleted.

The reliability of a bookmaker is also a basic prerequisite for ensuring a proper offer. Reliability must be ensured not only when the application is submitted, but throughout the duration of the license. In order to make this clear, the addition was included in sentence 2 by reference to § 2(9).

Re 28. § 24

This is an editorial amendment (see A. III above).

Re 29. § 25

This is a consequential amendment from the deletion of §§ 5 and 6 (see above: 'Re 5. §§ 5 and 6').

Re 30. § 26

This is an editorial amendment (see A. III above).

Re 31. § 27

This is an editorial amendment (see A. III above).

Re 32. § 28

Re letter (a):

This is an editorial amendment (see A. III above).

Re letter (b):

The amendment under (aa) was an editorial amendment. The rewording under (bb) serves to clarify. If, on the basis of the invitation to tender pursuant to § 28(1), no candidate can be found who can or wants to operate all three casinos, then the call for

tenders must be cancelled. Exceptionally, a new call for tenders can then be made for one site at a time. The requirements of paragraph 2 shall be complied with.

Re 33. § 29

Operators of casinos are also obliged to identify persons wishing to play by checking an official ID or a comparable identity check and to carry out a comparison with the central, cross-game exclusion file (see § 2(2) in conjunction with § 8(3) of the State Treaty on Gambling 2021). Because of the special importance for player protection, this is to be emphasised in the Act by the new sentence 2 in paragraph 1.

Since the casinos themselves and the companies employed there also undertake training, special attention should be paid to not only employees but also apprentices as part of the social concept. This clarifies the amendment in the third sentence of paragraph 1.

In order to facilitate the acquisition of young talents in the area of the casino control group, it is necessary that employees of the tax authorities of adult age can understand the functioning of the control group. They are allowed to visit the casino. The creation of a separate social concept for this visit, which normally lasts one day, is not required.

In addition, in strictly limited exceptional cases, the supreme gambling supervisory authority may also allow other persons under the age of 21 to visit the casino, for example if special events take place in the premises of a casino (e.g. award ceremony to a jockey during the race week or a concert for minors).

Paragraph 2(5) clarifies that neither those authorised for education or training nor those authorised by the supreme gambling supervisory authority may participate in the gambling. This is for the protection of young people.

Re 34. § 32

Re letter (a):

The amendment under (aa) is a linguistic revision. The amendment makes it clear that all video surveillance data must be transmitted to the authorities referred to in § 32(4) sentence 2 for the purposes stated here. The change under (bb) is a consequence of the change under aa).

Re letter (b):

This is an editorial amendment.

Re 35. § 33

Re letter (a):

§ 33 Paragraph 5 regulates the offsetting of the value added tax from the casino tax.

Sentences 2 and 3 clarify how this credit is to be made. If, in the context of the VAT pre-assessment procedure, a surplus of input tax payments over the VAT due from the trader arises (cf. § 18(1) of the VAT Act – UStG – and § 168 sentence 2 of the Tax Code – AO), the eligible VAT amounts of subsequent registration periods are reduced. This does not take into account any special VAT advance payment to be offset (cf. § 48(4) of the Value Added Tax Implementation Ordinance).

If, in the process of the tax declaration for the calendar year, the trader determines a difference from the sum of the advance payments constituting a surplus in their favour (cf. § 18(3) and (4) UStG and § 168 sentence 2 of the Tax Code), the casino levy to be paid increases by this surplus amount. This is based on the time of the inflow of the surplus amount to the entrepreneur.

Sentence 4 clarifies how the credit is to be made in the event of an tax group within the meaning of the VAT Act.

Re letter (b):

Paragraph 7a stipulates that uncollected balances on slot machines are attributable to the gross game earnings.

Paragraph 7b is a regulations relating to tokens with monetary value found in the casino. Tokens with monetary value have such a close relationship to the gambling operations of the casinos that they increase the gross game earnings if they cannot be assigned to any player. The interior of the casinos includes all their interior spaces. The outdoor area includes in particular the areas of the outdoor restaurant of the casinos in Baden-Baden and Konstanz as well as the parking area of the Konstanz casino.

Paragraph 7c stipulates that cash amounts increase the gross game earnings insofar as they are found directly in the gaming area of the casinos (cf. § 32(2) point 3) and cannot be assigned to any player.

Re letter (c)

The change ensures that game losses of a gaming day are treated equally at the casino and in the organisation of online casino games. In addition, the change serves to reduce bureaucracy.

Re 36. § 37

The amendment to the first sentence of paragraph 2 ensures that the same deadlines apply for monthly reports to be submitted by the casino as for comparable reports by the organisers of online casino games.

The repeal of the previous sentence in paragraph 1 is a consequence of the analogous application of the Tax Code pursuant to § 38(2), first sentence.

The amendment to sentence 2 in paragraph 3 also ensures that the same deadlines apply for monthly reports to be submitted by the casino as for comparable reports by the organisers of online casino games.

The deletion of the last sentence in paragraph 3, which governs the maturity of the advance payment, is a consequential change resulting from the repeal of the second sentence of paragraph 2.

The deletion of the previous sentence 2 is a consequence of the analogous application of the Tax Code pursuant to § 38(2), first sentence.

The addition of paragraph 5 allows for the electronic submission of the tax declaration, provided that such access is made possible.

Re 37. Section 6a Taxation of Online Casino Games

Re § 39a

The tax object for online casino games is based on establishing a fundamental equivalence to the legal provisions of the State Treaty on the revised regulation of gambling in Germany of 29 October 2020 (GBI. 2021 p. 120, State Treaty on Gambling 2021 – GlüStV 2021). Online casino games may only be organised within the territory of the respective Land, § 22c(1) sentence 1 of the State Treaty on Gambling 2021. Pursuant to § 3(4) of the State Treaty on Gambling 2021, gambling is to be organised where the player is given the opportunity to participate. The possibility to participate shall only be granted to persons who are domiciled within the scope of this Act.

Since tax cannot be based on the mere possibility of participation, reference is made to the actual creation of the game contract. For the controllability of the online casino games, the residence recorded at the time of the player's declaration of intent is decisive, which they specified in accordance with § 6a(2) sentence 1 State Treaty on Gambling 2021 when registering for the establishment of their player account. The liability to tax associated with this residence for online casino games exists regardless of compliance with regulatory criteria.

The place of residence, habitual residence, place of management or registered office of the organiser within the meaning of the Tax Code is just as irrelevant for taxation as the place where the organiser has other technical devices (e.g. servers). By connecting to the registered residence of the player, the venue is within the scope of the law.

Taxation is independent of whether the organisation of online casino games is permitted under the State Treaty on Gambling 2021 (cf. § 40 of the Tax Code).

Re § 39b:

The taxation of online casino games is linked to the gross game earnings within the meaning of § 33(6) point 1, since the organiser always bears a gambling risk in online casino games.

Paragraph 2 regulates the offsetting of gaming losses against gross gaming income.

Re § 39c:

The tiered tax rate aims to maximise profit recovery. At the same time, it is intended to ensure that the organiser of the online casino game retains a sufficient entrepreneurial profit according to the principles of economic efficiency. Up to gross game earnings of EUR 300 000 in the calendar month, the tax rate is 15 percent. If the gross game earnings in the calendar month exceeds EUR 300 000, the excess amount will be taxed at 20 percent. If the gross player contribution in the calendar month exceeds EUR 750 000, the amount exceeding EUR 750 000 will be taxed at 25 percent.

Re § 39d:

The status of organiser is a prerequisite for the existence of the tax liability.

The organiser may be any natural or legal person, but also any association of persons with no legal capacity, on whose behalf the players are given the opportunity to participate in the online casino game. In particular, the organiser decides on the games offered and arranges the questions that need to be regulated in relation to the players, e.g. through pre-formulated contract terms, and implements them himself or through others accordingly.

Re § 39e:

The tax arises at the end of the respective calendar month of conducting online casino games. This is therefore a moment in time when the gross game earnings and any game losses to be taken into account when calculating the assessment base are determined.

Re § 39f:

The online casino game tax is designed as a registration tax. Paragraph 1 defines the calendar month as the notification period. Paragraph 2 specifies the formal requirements for the tax declaration and determines the due date.

Re § 39g

If an organiser has neither a domicile or habitual residence nor a place of management or registered office in a Member State of the European Union or a Contracting State to the Agreement on the European Economic Area, they shall immediately nominate a tax representative to the competent tax office. Organisers who are habitually resident or established in a Member State of the European Union or in a State party to the Agreement on the European Economic Area are in accordance with the freedom to provide services guaranteed by Article 57 of the Treaty on the Functioning of the European Union be exempt from the obligation to appoint a tax representative within the territory of the Land (paragraph 1). Paragraph 2 lays down who can be tax representatives.

The tax representative shall assume the tax obligations of the organiser in the exercise of their business (paragraph 3). The tax representative is fully involved in the tax liability relationship; They shall fulfil the obligations of the organiser or organiser established outside a Member State of the European Union or of a Contracting State to the Agreement on the European Economic Area as if they were their own, whereby they have the same rights as the person whom they represent. In accordance with paragraph 4, the organiser and their tax representative are jointly and severally liable (§ 44 of the Tax Code). § 123 The Tax Code shall remain unaffected by paragraph 5.

Re § 39h:

In order to be able to understand the calculation of the tax bases and the tax determination, the organiser of the online casino game must keep records. In the case of § 39g, the organiser shall transmit the records kept by them or by their representative on a monthly basis. This ensures that the tax representative has the records necessary for the fulfilment of the tax obligations incumbent upon him or her under § 39g(3).

The contents of the records are specified in paragraph 2. The records of the access facilities provided within the meaning of paragraph 2 point 4 shall include in particular the

internet address of the offer and the names of the available applications, which can be used additionally or entirely independently via terminal devices.

The provisions for keeping and storing books and otherwise required records in accordance with the Tax Code and the respective individual tax laws shall remain unaffected by the recording obligations referred to in paragraph 2.

Re § 39i:

The tax office Karlsruhe-Durlach is responsible for the administration of the online casino game tax factually and locally. The second sentence authorises the Ministry of Finance to determine the competent tax authority by way of derogation from the first sentence.

Re § 39j:

The notification requirements are intended to ensure that the competent tax authority is informed of the organisation of online casino games. The required data are used to clearly identify the taxable person and the starting date of the tax liability.

Re § 39k:

Paragraph 39k provides that the procedural provisions of the Tax Code are to be applied mutatis mutandis, in so far as there is nothing different from the rules governing the taxation of online casino games.

Re § 39l:

This provision is essentially reproduced from § 27b of the VAT Act and enables the tax authority to verify the taxable amount and ensure tax revenue.

Re 38. § 40

This concerns merely the introduction of the abbreviation for the Trade Code.

Re 39. § 41

Re letter (a):

This is an editorial amendment (see A. III above).

Re letter (b):

This is a consequential change due to the changes in § 2(1) sentence 3.

The reference to § 33c(2) of the GewO is supplemented with the words 'number 1' for the purpose of clarification. As previously by static reference, reference is made exclusively

to the reliability requirement clearly described in § 33 c(2)(1) of the GewO.

Re 40. § 43

This is an editorial amendment (see A. III above).

Re 41. § 44

It is to be clarified that outdoor advertising must not be directed to children and adolescents or to vulnerable players. This serves the special protection of these persons. Pursuant to paragraph 2(3) of the State Treaty on Gambling 2021, paragraph 5 of the State Treaty on Gambling 2021 applies to the advertising of arcades. This is to be made clear.

Re 42. § 45

Since §§ 2(3), 8 and 23 of the State Treaty on Gambling 2021 require operators of arcades to connect to the central, cross-game exclusion system and to make comparisons and to have exclusions registered themselves, the previous provision is obsolete and shall be deleted.

Re 43. § 47

The references in paragraphs 1, 2, 3, 5 and 7 shall be adapted to the new legal basis. In terms of content, this does not result in any changes to the current legal situation.

The deletion of the words 'Sentence 2' in the first sentence of paragraph 1 serves to clarify that the obligation under paragraph 3(1), point 1, also applies to the Karlsruhe Government Office. The semi-sentence added at the end is intended to clarify that the Karlsruhe Governmental Presidium is in particular competent in cases where an offer is to be permitted which is not expressly regulated either in the State Treaty on Gambling or in the Land Gambling Act or in which the classification as a game of chance has not yet been definitively clarified. In other respects, this is an editorial amendment.

The insertion of the new sentence 4 in paragraph 2 is a consequential change due to the amendment of §15(2), point 1 (see amendment 15 b).

The change in the name of the Ministry responsible for horse betting in paragraph 3 is

based on the new name of the Ministry (cf. Notice of the Land Government on the demarcation of the responsibilities of the Ministries of 24 July 2001, as last amended by Act of 12 May 2021).

The addition 'unless the State Treaty on Gambling 2021 determines otherwise' in the first sentence of paragraph 5 is made against the background that the State Treaty on Gambling 2021 determines responsibility for the exclusion system under special legislation. In accordance with §§ 8a to 8d, 23 State Treaty on Gambling 2021 in conjunction with § 15(9) of the Hessian Gambling Act (HGlüG), the Land Hessen, represented by the Darmstadt Government Präsidium, is responsible for the operation of the exclusion system.

The insertion of paragraph 6 serves to implement the objectives of the State Treaty. The objectives of § 1 of the State Treaty on Gambling 2021 can only be achieved if the legal requirements, in particular concerning the protection of players and minors, are also implemented in practice. For this purpose, it is necessary that regular on-the-spot checks are made. In view of the large number of venues to be controlled, a control 'on occasion' is not sufficient to address the risk of inadequate implementation. Controls relating only to specific incidents are insufficient to meet the objectives of § 1 of the State Treaty on Gambling 2021.

As part of the Prevention Day of the Association of the Gambling Machine Industry on 17 January 2022, Mr. Jürgen Trümper, Chairman of the Working Group Against Gaming Addiction, presented a field study on illegal gambling. One of the key statements was that official controls – and the associated risk of not insignificant sanctions for infringements – contribute above all to the containment of illegal gambling, the spread of which continues to increase. In that regard, however, there is a structural problem with regard to the implementation and enforcement of gambling law, since the competent authorities are overburdened by the allocation of too many tasks, sometimes completely different, and by the staff shortages in comparison with this aspect. There is therefore a lack of controls by which illegal gambling offers can be identified and sanctioned, which makes the illegal game attractive to the relevant providers precisely because they are not deterred by imminent legal consequences. Trümper supports this assessment by evaluation of a survey of municipalities, which showed that in 30 to 40 % of the municipalities, no controls on gambling offers took place in 2019. With reference to a recent study which has not yet been completed, Trümper confirms that a tendency to a further decrease in official controls (possibly also due to the pandemic) is to be expected, which automatically increases illegal supply due to a lack of risk of detection and sanction. Against this

background, Trümper argues that, on the one hand, the authorities responsible for the implementation and enforcement of gambling law should be much better equipped in terms of personnel and, on the other hand, more expertise should be made available to the authorities. In his view, combating and avoiding illegal gambling is all the more effective the better the control and enforcement structures work. For this reason, it is important to have sufficient staff available to strengthen the control possibilities, who will be sensitised and empowered by regular training on illegal offers to identify them and at the same time have the expertise on the possible legal consequences of infringements. As a result, as well as with the help of an increased control density and the associated risk of detection and punishment for illegal providers, a better deterrent effect could be achieved.

The Land – also with a view to retaining the lottery monopoly – has a significant interest in ensuring that permitted gambling offers are properly carried out. Therefore, in addition to the supervisory measures taken by the municipalities with regard to arcades, the legal basis is established for the gambling supervisory authority pursuant to § 47(1) to carry out controls in arcades (for the reasons see below). The findings made in this way are to be handed over to the competent lower administrative authorities and to the Government Präsidiums in order to take any supervisory legal action.

The gambling supervisory authority pursuant to § 47(1) has no responsibility in respect of arcades beyond the controls and passing on of the outcomes; in this respect, the previous responsibilities remain. The checks shall be carried out in addition to those of the trade authorities.

Unlike for the arcades, the Karlsruhe Governmental Presidium is centrally responsible for betting shops in the Land. Given the human resources and the distance to the individual betting shops – one can just think of locations in the Bodensee area – it is currently not possible for the staff of the competent authority to check all establishments regularly. On a case-by-case basis, the local trade authority could be asked to carry out a check. However, since they often had to postpone the checks of the local arcades due to overload and staff shortages and thus neglect their own control obligations, it is not appropriate to impose on them the regular monitoring of betting shops. It cannot be the intention of the legislature that controls of betting shops are carried out at the expense of the controls of the arcades. In administrative law, the principle is that the control obligation to comply with conditions and ancillary provisions is, in principle, incumbent upon the authority granting the authorisation. A check by mutual assistance shall be regarded as an exception, unless the control is delegated by law to another body. Consequently, the authorised betting shops must also be controlled by the competent

authority granting permission.

The same applies to requests for assistance to the police. Regular inspections of the venues are not enforcement tasks to be performed by the police.

In order to achieve sufficient effectiveness, according to the Trümper study, checks must be carried out not only once following the granting the license or by written procedure, but regularly and on-the-spot. Experience in Rhineland Palatinate shows that the number of complaints has decreased due to the unannounced regular checks after setting up control groups. These results are confirmed by a significant increase in the error rate in the context of (youth protection) controls of the reception points after these controls were subjected to these checks during the coronavirus pandemic.

An annual inspection of the gambling venues is foreseen. A one-off check during the term of a license, which is at initially five, then seven years, is not sufficient. In view of the dangers associated with making the game possible without compliance with the permission requirements, this is unacceptable. In this context, it should be borne in mind that gambling is not an asset to everyday life, but is in itself undesirable.

When it comes to controls, it is not appropriate to rely solely on compliance with the undoubtedly important provisions on the protection of minors. The requirements that ensure proper play and player protection must also be checked. Only in compliance with all regulations can an intrinsically undesirable and dangerous act be allowed. Checks on the betting brokerage agency are also required to ensure that the requirements of the Money Laundering Act are complied with.

Fees are to be levied on the operators of the venues for carrying out the checks. If a sufficient number of controls is carried out, the staff required for the checks may be financed by the fees. By bundling the controls of betting brokerage points and arcades, a cost-neutral solution is thus possible.

However, the implementation of the on-the-spot checks should not only be bundled for cost reasons. In order to carry out such checks, special knowledge is required, for example in order to be able to check the compliance of the equipment installed and the conduct of the games. It makes sense, therefore, to train a number of employees – including in terms of self-protection – especially for this task and to use them for this task. In particular, the deployment of retired police enforcement officers is also appropriate.

The current staffing of the competent authority pursuant to § 47(1) is not sufficient to carry out checks on the arcades in addition to the regular checks of betting shops. Given the importance of the controls to ensure the protection of players and young people and the compliance of the operation with the regulations, as well as for the fight against money laundering, the conditions should be created as soon as possible. In addition, the competent authority under § 47(1) is expected to carry out checks in the meantime within the limits of its possibilities and gradually expand them.

It is up to the competent authority to ensure the on-the-spot checks of betting shops (regularly and not only limited to the protection of minors). It is conceivable, for example, that control groups could be set up, such as in Rhineland-Palatinate, which could be spatially distributed among the administrative districts in order to keep the distances to the venues as short as possible. However, other forms of control that are equally effective and cost-neutral should not be explicitly excluded.

In the event that the State Treaty on Gambling expires in 2021 or is terminated by the Land, the responsibility for the tasks referred to in § 9a(1) and (2) in relation to the territory of the Land pursuant to paragraph 8 shall be transferred to the Karlsruhe Government Presidium.

Re 44. § 48

Re letter (a):

In the State Treaty on Gambling 2021, new administrative offences were included in § 28a, so that clarification is needed here.

Re (b) to (e)

These are respective editorial amendments (see A. III above).

Re (f)

Given the importance of the exclusion file reconciliation for youth and player protection, it is necessary to designate the omission of the legal obligation to connect and to cross-check as an administrative offence in order to promote its enforcement.

Re (g)

The administrative offence serves the enforcement of the obligations in connection with the issuing of a player exclusion.

Re letter (h)

The administrative offence serves the enforcement of the obligation to deter excluded players from gambling.

Re (i)

The insertions serve for clarification.

Re point (j)

This is a clarification. The obligation to cross-check the exclusion file also applies to casinos.

Re points (k) and (l)

By inserting administrative offences points 12a and 12b, these points should be deleted.

Re point (m)

The purpose of the administrative offence is to prevent gambling from being offered in combination with other intoxicating substances.

Re 45. § 49

Since the number of sports betting concessions is no longer limited and the limit on the number of betting shops has also been dropped, a legal regulation to change the number of betting shops is no longer necessary.

Re 46. § 51

Due to the passage of time, the previous paragraphs 1, 2, 6 and 7 may be deleted.

The hardship case regulation of the fourth sentence of § 29(4) of the State Treaty on Gambling 2012, which is based on § 51(5)(1) to (4), has been superseded on the basis of the State Treaty on Gambling 2021 and is therefore no longer applicable since the entry into force of the State Treaty on Gambling 2021. It has been replaced by the opening clause of § 29(4) of the State Treaty on Gambling 2021, which, however, is not used in Baden-Württemberg.

Re 47. § 52

The regulations listed in § 52 have ceased to apply with the entry into force of the Land Gambling Act 2012 and no longer exist, so that the regulation is no longer needed.

Re 48. § 53

Entry into force is regulated by Article 3, so this provision could be deleted.

Re Article 2 (Republication)

In order to facilitate the work with the Land Gambling Act, a new notification must be decreed.

Re Article 3 – Annex to the Ordinance of the Ministry of the Interior on the fixing of fees for public services of the State authorities for the area of responsibility of the Ministry of the Interior

Re 2. B. 14

The changes in the heading to point 14 and in points 14.1, 14.1.1, 14.1.9, 14.3.3 and 14.4 are editorial amendments.

The amendment to point 14.1.2 has the following background: in the past, authorisation for the implementation of savings bonds has been granted free of charge by a third party (savings bond association). The general administrative fee was also not used, as the permission did not create a large amount of work.

In the meantime, however, the workload for authorisation has increased. For example, conditions on advertising must now be made together with the consent. Finally, the queries of the savings bond associations regarding their possible action within the framework of authorisation have multiplied within the period of validity of the consent, so that there is also an increased workload in this case.

The introduction of the new fee takes into account the requirement of certainty, which requires that beneficiaries of public services be able to identify which public service area is subject to a fee obligation. This can also avoid recourse to the general administrative fee, thereby also improving the transparency and openness of administrative action towards those subject to fees.

The fee framework of EUR 50 – EUR 50 000 for authorisations is reasonable. This is based on the framework for an individual license according to the previous point 14.1.2.

However, since the workload for authorisation is less than that for an individual license, the fee framework must be kept lower for both in its minimum and maximum rate.

A new fee will be introduced for the control of venues. Operators of local points of sale of gambling products that have an economic interest in the mediation of gambling, are undertaking a legal but undesirable activity in itself which poses considerable dangers. This can only be considered responsible if sufficient and comprehensive control (independent of suspicion and event-related) is ensured. It is therefore justified to require the person who caused the need to carry out the inspection to reimburse the costs incurred, including, inter alia, pre-processing, follow-up and travel times. The fee framework is also used for provide control. It is appropriate and necessary to achieve the objectives of combating illegal gambling and money laundering, ensuring the protection of players and minors and containing the supply. The fee framework is reasonable. The upper fee level is intended for extensive and time-intensive audits of the respective venue, as is the case in particular for regular independent on-the-spot checks. The lower fee level is aimed at controls with a limited audit scope, such as an event-related or follow-up check.

A fee is also be envisaged for monitoring the online casino offer. The organisation of online casino games is a permitted but in principle undesirable activity. Because of the dangers it poses – casino games are among the games with the highest addictive potential – constant control is required to ensure that the provisions laid down in the license are actually implemented and applied. Even if the organiser is a state-owned company, it is justified to demand the costs incurred for the controls. These also include the costs incurred by the fact that no own safe server evaluation system is operated, and rather that the GGL is used and corresponding evaluations are carried out from there.

Re Article 4 (Entry into force)

The provision of paragraph 1 regulates the date of entry into force of the Act. The day after the announcement is envisaged for this purpose.

According to paragraph 2, the rules on the taxation of casinos should in principle continue to be applied to all tax determinations that are not yet final. The aim of this regulation is to achieve fair taxation in all outstanding cases.