

Draft

Law of amending the Act of 4 July 2019 on the activity of betting operators (Tyrolean Betting Operators Act)

The Provincial Parliament (Landtag) has enacted the following:

Article I
Amendment to the Tyrolean Betting Operators Act

The Act of 4 July 2019 on the activity of betting operators (Tyrolean Betting Operators Act), Provincial Law Gazette (LGBL.) No 98/2019, as amended by the Provincial Law Gazette (LGBL.) No 85/2023, is amended as follows:

1. *In the title of the Act, in brackets after the short title: ‘Tyrolean Betting Operators Act’ a indent and the following letter shortening shall be added:*

‘TWUG’

2. *§ 9 shall read:*

‘§ 9

Financial capacity

Evidence of financial capacity shall be provided through a bank guarantee or a confirmation of credit facilities to an amount of at least EUR 150,000 from a financial institution domiciled in the EU or in a state deemed equivalent under EU law, with a validity of at least one year.’

3. *§ 13 Paragraph 1(c) shall read:*

‘c) the confirmation of the bank guarantee or credit facilities expires and no new confirmation under § 9 is submitted in time before the expiry date;

4. *In § 14, first sentence, after the word: ‘provincial government’ the sequence of words ‘by decision’ shall be added.*

5. *In § 14(c), the ‘Glückspielgesetz’ shall be replaced by the word ‘Glücksspielgesetzes’.*

6. *§ 16 Paragraph 2(d) shall read:*

‘d) a bank guarantee or a confirmation of credit facilities to an amount of at least EUR 150,000 from a financial institution domiciled in the EU or in a state deemed equivalent under EU law, with a validity of at least one year;’;

7. *§ 17 Paragraph 2(a) shall read:*

‘a) they can be operated solely using a card issued specifically to a particular customer (‘betting customer card’) or a biometric recognition process;’

8. *In § 17, the following provisions shall be added as paragraphs 4, 5 and 6:*

‘(4) A betting customer card may be issued by the betting operator only to individuals above the age of majority.

(5) The betting customer card must contain at least the following content elements:

- a) Name and surname of the betting customer;
- b) Date of birth of the betting customer;
- c) Date of issue of the betting customer card;
- d) Name of the betting operator;
- e) Photograph of the betting customer on which the customer is clearly identifiable.

(6) Access to a betting terminal, established by means of a biometric recognition procedure, may be issued by the betting operator only to individuals above the age of majority following the conclusion of a customer's account. The biometric recognition procedure must ensure a unique identification of the customer.'

9. § 18 Paragraph 1, first sentence shall read:

'The betting operator must ensure and monitor compliance with operating regulations, in particular in connection with the protection of children and young people, as well as the betting rules, labelling and operating hours for each betting outlet at which betting terminals are installed and operated.'

10. § 19 Paragraph 3(c) shall read:

- 'c) a reference to the betting customer's identification obligation when placing bets, when being issued with a betting customer card, when setting up access using a biometric identification procedure and for online betting; when betting via input devices, the reference to the betting customer's identification obligation for bets over an amount of EUR 50;';

11. § 19 Paragraph 4 shall read:

'(4) The betting rules must be displayed in a prominent location in the betting outlet or made available to betting customers in any other appropriate form. For online bets, the betting operator's website must provide easy access to the betting rules.'

12. § 20 Paragraph 1(a) shall read:

- 'a) the identity of the betting customer, the beneficial owner or and the person claiming to act on behalf of the betting customer, as ascertained as per § 32, in the event of a betting transaction, when placing bets, issuing betting customer cards, establishing access by means of a biometric identification procedure and for online bets; for bets input via betting machines, this shall apply for bets over EUR 50;';

13. § 26 Paragraph 2, last sentence shall read:

'For certificates issued on the basis of notifications under § 25(c) and (e), § 12(3) shall also apply.'

14. § 31 Paragraph 1(d) shall read:

- 'd) before paying out the credit stored on the betting customer card, or prior to the payment of credit, which can be accessed by means of a biometric recognition procedure, or the credit stored in the name of the betting customer if the payout amount totals EUR 2,000 or more;';

15. In § 35, paragraph 2 is repealed. The current paragraph 3 shall be renumbered as follows: '(2)'

16. § 36 Paragraph 2, last sentence shall read:

'In case of doubt, bets may be accepted, but the payout of winnings or credit stored on the betting customer card or credit otherwise stored in the name of the betting customer must be refrained from and the betting customer's access to winnings or credit must be blocked by means of a biometric recognition procedure.'

17. § 43 Paragraph 1 shall read:

'(1) Departments of district administrative authority and the experts invited by it are authorised to check compliance with the provisions of this Act at any time and without notice; to do so, they are authorised to enter and inspect business premises and commercial establishments at which betting operator activities are carried out or at which non-compliance is suspected. This shall also apply to business premises or commercial establishments that are not open to the public. In addition, they shall be entitled to place bets free of charge to the extent necessary.'

18. § 43 Paragraph 2 shall read:

‘(2) The inspection authorisation shall include checks on the equipment and programs used, as well as on individual equipment and program parts outside the installation site. For the purpose of the checks, the operator must allow the district administrative authority’s inspecting body or the experts the authority has called in to place bets free of charge, to open the equipment and hand over the storage media (circuit boards, hard drives, etc.) for the programs. The equipment inspected must not be switched off or disconnected from the power supply before the departments of the district administrative authority or the experts it has called in have placed any test bets. In addition, the district administrative authority or the experts it has called in are entitled to inspect all business papers and secure evidence.’.

19. § 43 Paragraph 4 shall read:

‘(4) The betting operator shall be required to participate in all the inspection measures referred to in paragraphs 1 and 2. In the event of his absence, he must ensure that the owner of the business premises, the persons otherwise entitled to dispose of the business premises, the person responsible or their assistants pursuant to § 18 are involved in facilitating the inspection measures referred to in paragraphs 1 and 2.’.

20. In § 47(1), the following provision is inserted as a point (h):

‘h) contrary to § 17(4) and (6), issues a betting customer card to a person under the age of majority or establishes access to a betting terminal for a person under the age of majority by means of a biometric identification procedure,’.

21. The previous points ‘(h)’ to ‘(w)’ are assigned the letters ‘(i)’ to ‘(x)’.

22. The current § 47(1)(i) shall read:

‘i) contrary to § 18(1) or (2), fails to ensure that compliance with the rules on exercise is ensured and monitored and, contrary to § 18(2), continues to operate the betting terminals at the location concerned for more than four weeks after the departure of a responsible person,’.

23. § 47 Paragraph 4 shall read:

‘(4) Anyone who tolerates the exercise of a business as a betting operator or the operation of a betting terminal by third parties in a generally accessible business premises intended for the exercise of their gainful employment or as the owner of a business premises without the appropriate authorisation, or the commercial placing of the bets referred to in § 3, commits an administrative offence and is liable to a fine of up to EUR 25,000 from the district administrative authority.’.

24. § 53 Paragraph 2 shall read:

‘(2) References to federal laws refer to the version cited below in each case:

1. General Civil Code – ABGB, JGS No 946/1811, last amended by the Act published in Federal Law Gazette (BGBl.) I No 33/2024;
2. Asylum Act 2005 – AsylG 2005, Federal Law Gazette (BGBl.) I No 100/2005, last amended by the Act published in Federal Law Gazette (BGBl.) I No 221/2022;
3. Balance Sheet Accounting Act 2014 – BiBuG 2014, Federal Law Gazette (BGBl.) I No 191/2013, last amended by the Act published in Federal Law Gazette (BGBl.) I No 232/2022;
4. Federal Criminal Police Office Act – BKA-G, Federal Law Gazette (BGBl.) I No 22/2002, last amended by the Act published in Federal Law Gazette (BGBl.) I No 123/2021;
5. Financial Markets Anti-Money Laundering Act – FM-GwG, Federal Law Gazette (BGBl.) I No 118/2016, last amended by the Act published in Federal Law Gazette (BGBl.) I No 98/2021;
6. Financial Crime Act – FinStrG, Federal Law Gazette (BGBl.) I No 129/1958, last amended by the Act published in Federal Law Gazette (BGBl.) I No 34/2024;
7. Industrial Code 1994 – GewO 1994, Federal Law Gazette (BGBl.) I No 194/1994, last amended by the Act published in Federal Law Gazette (BGBl.) I No 75/2023;
8. Gaming Act – GSpG, Federal Law Gazette (BGBl.) I No 620/1989, last amended by the Act published in Federal Law Gazette (BGBl.) I No 3/2023;
9. Settlement and Residence Act – NAG, Federal Law Gazette (BGBl.) I No 100/2005, last amended by the Act published in Federal Law Gazette (BGBl.) I No 175/2023;

10. Schooling Organisation Act, Federal Law Gazette (BGBl.) I No 242/1962, last amended by the Act published in Federal Law Gazette (BGBl.) I No 37/2023;
11. Criminal Code – StGB, Federal Law Gazette (BGBl.) I No 60/1974, last amended by the Act published in Federal Law Gazette (BGBl.) I No 135/2023;
12. Sentence Reversals Act 1972, Federal Law Gazette (BGBl.) I No 68/1972, last amended by the Act published in Federal Law Gazette (BGBl.) I No 148/2021;
13. Beneficial Owners Registry Act – WiEReG, Federal Law Gazette (BGBl.) I No 136/2017, last amended by the Act published in Federal Law Gazette (BGBl.) I No 179/2023;
14. Professional Accountants and Tax Advisors’ Act 2017 – WTBG 2017, Federal Law Gazette (BGBl.) I No 137/2017, last amended by the Act published in Federal Law Gazette (BGBl.) I No 42/2023.’.

25. *In § 54, the following provision shall be added as paragraph 8:*

‘(8) The betting customer cards issued on the date of entry into force of the Provincial Law Gazette (LGBL.) No XX/202X may continue to be used. The betting customer cards referred to in § 17(5) shall be issued from 1 June 2026.’

26. *§ 56 shall read:*

‘§ 56

Notification

This Act has been notified in accordance with the provisions of Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L, 2015, 241, p. 1 (Notification No XXX/XX/X).’

Article II

Entry into force

This Act shall enter into force at the end of the day of its promulgation.