

**Regulatory Impact Analysis (RIA)**

**Gambling Regulation Bill**

**Department of Justice  
October 2021**

## Summary of Regulatory Impact Analysis (RIA)

**Department/Office:**

**Justice**

**Title of Legislation:**

**Gambling Regulation Bill**

**Stage:**

Approval of text of Gambling Regulation Bill

**Date:**

**October 2021**

### **Related Publications:**

- [Inter-Departmental Working Group on Future Licensing and Regulation of Gambling](#)
- Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland – (European Commission supported report)
- [Gambling Control Bill 2013 General Scheme](#)
- [Final report to the Department of Justice & Equality - Developments in the Gambling Area](#)
- [Law Reform Commission Report Series: Accessibility of Legislation in the Digital Age](#)
- [Gambling Trends, Harms and Responses: Ireland in an International Context – Maynooth University 2021](#)

### **Contact for enquiries:**

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### **Policy Options**

- 1. Do Nothing – maintain status quo.
- 2. Introduce new legislation to:
  - establish an independent regulator to license the gambling sector, ensure compliance and impose sanctions on non-compliant providers;
  - ensure that the regulator has robust statutory powers and is appropriately resourced;
  - introduce safeguards and supports to address the negative social impacts of gambling.

Preferred Option: Option 2

**OPTIONS**

	<b>COSTS</b>	<b>BENEFITS</b>	<b>IMPACTS</b>
1	Other than the legislation which covers the operation of the National Lottery, the current legislative situation does not provide for a coherent licensing and regulatory approach to gambling activities in Ireland.		<p>Failure to establish a Gambling Regulatory Authority would leave Ireland as an outlier in this sector, particularly in an EU context.</p> <p>There is significant public and political criticism that enforcement of the (gambling) licensing conditions that exist at present is sporadic and inconsistent, allowing for gaps in communication across Government Departments and agencies in this regard.</p> <p>Due to the fragmented nature of existing licensing conditions, there can be confusion, both among providers and members of the public, as to what is actually required in order to operate in a legitimate manner; a single, centralised regulatory approach would address that.</p> <p>The pervasiveness of gambling advertising has been the subject of public disquiet and criticism by members of the Oireachtas. A <a href="#">Private Members' Bill</a> aimed at banning gambling advertising was introduced to the Oireachtas on 19 April 2021 by Senator Mark Wall.</p>

<p>Failure to implement unified and coherent regulation on an already fragmented regulatory environment limits the potential for appropriate and transparent revenue-raising possibilities from licensing fees, duties and taxation, which could better fund regulatory activities and assist in addressing societal issues associated with problem gambling.</p> <p>Failure to address the pressing need for a robust regulatory system for the gambling sector leaves open the existing gaps and fragmentation in the system in which activity of a criminal nature, such as money laundering, prospers.</p>		<p><a href="#">A report published in 2021</a> by Maynooth University estimates high levels of problem gambling in Ireland (circa 40,000 adults) but the numbers of those presenting for treatment (in the public sector) for gambling addiction appears to be quite low.</p> <p>There is also concern at the lack of suitable safeguards for consumers, particularly children.</p>
<p>Moving to a unified regulatory approach would lessen potential for duplication of resource needs and would enhance streamlining and coherency of approach.</p>		<p>While the availability of online gaming services is widespread in Ireland, there is currently no means available for operators (other than in relation to betting) to obtain a relevant licence. As a result, there is no regulatory oversight of this sector, nor a full revenue return to the State in terms of licence fee income or online gaming tax (<a href="#">IDWG Report pp.11-12</a>).</p>

			<p>The <a href="#">Programme for Government</a> (June 2020) committed the Government to establishing a Gambling Regulatory Authority.</p> <p>The Department of Justice's <a href="#">Statement of Strategy 2021-2023</a> and the Department's <a href="#">Justice Plan 2021</a> (February 2021) set timelines to the fulfilment of the above Programme for Government commitment, specifically in relation to the publication of a General Scheme of a Bill and the appointment of a CEO Designate for the new regulatory body.</p>
			<p>Failure to introduce comprehensive regulation of the industry is likely to result in reputational damage to the Government, particularly in view of the Programme for Government commitment to so regulate.</p>
2	<p>It has been estimated that a statutory Gambling Regulatory Authority would employ in the region of 100 staff members and cost circa €10m per annum to operate. However, it is anticipated that the body could become self-funding over time via licence fees, etc.; however, some establishment costs are likely to have to be met before the body starts to generate sufficient income in order to be</p>	<p>When it is established, the Authority will have the necessary powers to implement a robust licensing system and to take enforcement action (and, where necessary, impose sanctions) where providers are non-compliant.</p> <p>Among the key objectives of a Gambling Regulatory Authority would be providing a consistent and user-friendly licensing system for companies which is easily auditable, providing a fairer and more accountable</p>	<p>Establishment of an independent Gambling Regulatory Authority would bring much needed regulation to the sector in terms of public safety and customer protection, gambling advertising, revenue, an increased awareness of the dangers of problem gambling as well as providing assistance in relation to funding for appropriate support mechanisms for those affected by gambling addiction.</p>

in a position to self-fund.	gambling system for customers, preventing gambling from being a source or support to crime including via money laundering and/or terrorist-related activity, requiring the promotion of safe and responsible gambling and helping to support the combatting of problem gambling.	
	The responsibility for licensing and regulating gambling activities is currently shared between a number of Departments and agencies. This fragmented approach does not facilitate a consistent and effective approach to licensing, compliance and enforcement, consumer protection and the safeguarding of children.	
	The establishment of a Gambling Regulatory Authority would bring all these strands under one body, easing the administrative burden across a variety of Departments.	

## Description of Policy Context and Objectives

### Policy Context

1. The current legislation which exists in Ireland to regulate gambling is outdated and in need of significant reform. Legislation currently in place does not provide for a coherent licensing and regulatory approach across all gambling activities (apart from the specific legislation for the National Lottery).
2. Licensing and regulation of gambling in Ireland is based on the following legislation:

- **The Totalisator Act 1929** provides for the licensing of Tote (pool betting) operators who operate at horse and greyhound racing courses in Ireland and for their offerings to other international pool-betting operators.
  - **The Betting Acts 1931 to 2015** provide for the licensing of betting activities. Online bookmakers and betting intermediaries were licensed for the first time under the Betting (Amendment) Act 2015.
  - **The Finance Act 1975** provides for the licensing of gaming machines.
  - **The Gaming and Lotteries Acts 1956 to 2019** provide for the licensing of (low value and locally based) gaming and lottery activities (including bingo, raffles, etc.).
  - **The National Lottery Act 2013** provides for the licensing of the National Lottery and the establishment of a regulator to oversee the activities of the National Lottery operator.
3. There is little or no scope for meaningful incremental reform of regulation of gambling through existing legislation. The Interdepartmental Working Group (IDWG) on Future Licencing and Regulation of Gambling (2019) concluded that the most efficient and cost-effective means of achieving the comprehensive reform that is needed would be to introduce new overarching legislation. This new legislation would regulate all forms of gambling in Ireland (other than in relation to the National Lottery, which is currently regulated separately). This should be done by building on and updating the proposed provisions in the 2013 General Scheme, having particular regard to recent developments in the sector and in the wider community.
  4. The Minister for Justice has limited regulatory authority under the Gaming and Lotteries (Amendment) Acts 1956 to 2019. In particular, the Betting Acts 1931 to 2015 and the Gaming and Lotteries Acts 1956 to 2019 have little or no provision for the appropriate modern regulation and compliance oversight of the activities in the wider gambling sector. While the Betting (Amendment) Act 2015 provided for a clear means of attaining a licence for online bookmakers and betting intermediaries, this Act was intended to be temporary in nature pending the enactment of the Gambling Regulation Bill. The proposed new legislation would provide for regulatory oversight of these activities by the Gambling Regulatory Authority once it is established.
  5. Due to the level of technological advancements, the speed of innovation and the evolving nature of services and products available from gambling providers, as well as the expectation by members of the public of the availability of gambling services in a modern and computer-literate society, any laws that are introduced to regulate gambling must be both robust and sufficiently flexible to keep in touch with such advances. The IDWG noted that oversight of the activities provided for under the Betting Acts 1931 to 2015 and the Gaming and Lotteries Acts 1956 to 2019 are dispersed among a number of different tax administration and regulatory bodies, listed below.

- Department of Justice:
  - legislative oversight of minor gaming and lottery activities under the Gaming and Lotteries Acts 1956 to 2019;
  - issuance of certificates of personal fitness to representatives of online betting and betting intermediary operators, as well as non-Irish resident terrestrial bookmakers (mostly from Northern Ireland), under the Betting Acts 1931 to 2015;
  - compliance monitoring and inspection in connection with obligations on gambling service providers under Anti-Money Laundering legislation as well as issuance of certificates of personal fitness to beneficial owners or persons who effectively direct the private members' clubs at which gambling activities are carried on, who are not ordinarily resident in the State.
  
- Revenue Commissioners:
  - issuance of licences to all betting operators (terrestrial and online) under the Betting Acts 1931 to 2015, subject to production of a Certificate of Personal Fitness from An Garda Síochána (for operators in Ireland) or Department of Justice (for operators outside of Ireland as well as online operators) as appropriate;
  - issuance of gaming licences (for each premises) under section 19 of the Gaming and Lotteries Act 1956, subject to production by applicant for the licence of a District Court certificate issued under section 15 of this Act;
  - issuance of Gaming Machine Licences (for each machine) under section 43(4) of the Finance Act 1975, subject to production of a Gaming Licence (for premises);
  - issuance of an Amusement Permit (for premises) and Amusement Machine Licences (for each amusement machine) under sections 122 – 123 of the Finance Act 1992.
  
- Department of Finance:
  - issuance of totalisator (pool betting) licences under the Totalisator Act 1929;
  - legislative oversight of the Betting Acts 1931 to 2015;
  - lead role in negotiating the terms of the 4<sup>th</sup> Anti-Money Laundering Directive from an Irish perspective.
  
- Department of Public Expenditure and Reform:
  - legislative oversight of the Irish National Lottery under the National Lottery Act 2013;
  - the Office of the National Lottery Regulator is funded by a levy on the operator.
  
- An Garda Síochána:
  - issuance of certificates of personal fitness to Irish resident terrestrial bookmakers under the Betting Acts 1935 to 2015 and to beneficial owners or

persons who effectively direct the private members' clubs at which gambling activities are carried on, who are ordinarily resident in the State;

- assist the Department of Justice in the issuance of certificates of personal fitness to some representatives of online betting and betting intermediary operators, as well as non-Irish resident terrestrial bookmakers (mostly from Northern Ireland), under the Betting Acts 1931 to 2015, and beneficial owners or persons who effectively direct the private members' clubs at which gambling activities are carried on, who are not ordinarily resident in the State;
  - issuance of lottery permits (up to €5,000) under the Gaming and Lotteries Act 1956;
  - enforcement of gaming provisions outlined in Part V of the Gaming and Lotteries Act 1956.
- Local Authorities:
    - adoption and/or rescinding of resolution allowing gaming in their municipal area. (This is a prerequisite under Part III of the 1956 Gaming and Lotteries Act to the certification under the 1956 Act and licensing of gaming by the District Court and the Revenue Commissioners.)
  - District Courts:
    - issuance of local lottery licences (up to €30,000) under the Gaming and Lotteries Act 1956;
    - issuance of gaming certificates authorising the issuing of a licence for gaming (by Revenue Commissioners) under Part III of the Gaming and Lotteries Act 1956.

## **Policy Objectives**

### **Consolidation of existing gambling legislation**

6. The current legislation on the licensing of gambling activities in Ireland is inadequate and outdated, with much of the legal provisions dating back to shortly after the foundation of the State. Laws on gaming were updated in the Gaming and Lotteries (Amendment) Act 2019. Laws on betting date back to the Betting Act 1931, with an amendment in 2015 to license online betting and bring it within the taxation regime. There is significant public and political criticism that enforcement of the licensing conditions that exist is sporadic and inconsistent.
7. A number of agencies and Departments share responsibility for the licensing and regulation of gambling activities. This does not lend itself easily to a cohesive approach to licensing in terms of compliance, enforcement and consumer protection including the safeguarding of children. Furthermore, the current disjointed regulatory environment negatively affects the amount of revenue that could be raised through taxation, licensing fees and duties, which could be utilised to fund both regulatory

activities as well as research into gambling addiction, treatments and public awareness campaigns.

8. Ireland's gambling landscape includes both online and land-based types of gambling. It consists of a range of stakeholders and activities which include the National Lottery, bingo halls, gaming establishments (slot/gaming machines), online gambling, private members' clubs and traditional betting shops and on-course betting. In line with international trends, Ireland's gambling industry is seeing increased revenue annually. Traditionally, the gambling sector in Ireland consisted of horse racing and greyhound racing. Recent years have seen the industry move more broadly into sports betting as well as less visible forms of gambling such as casinos and increasingly popular online gambling platforms. The [2019 IDWG report](#) estimated that commercial forms of legal gambling employ approximately 8,000 people and generates in the region of €6-8 billion per annum in Ireland.
9. The Irish betting sub-sector consists of online bookmakers, retail bookmakers, online betting intermediaries and on-course bookmakers. A betting duty is levied by the State on all forms of traditional and remote betting, as well as betting commissions. There was an increase in betting duty returns after online bookmakers and betting intermediaries were brought into the licensing regime in 2015. The Betting (Amendment) Act 2015 made it a requirement for traditional land-based bookmakers to get a licence. It also required online bookmakers to pay a 1% betting duty. Online betting intermediaries were required to pay a tax of 15% of commission for the use of their facilities. Gambling duty was raised from 1% to 2% in 2019. Similarly, there was a raise in the betting intermediary duty, which rose from 10% to 25%.
10. Despite a significant increase in online gambling, traditional land-based gambling is still the most widespread form of gambling in Ireland.
11. Failure to implement unified, consistent and coherent regulation in what is currently a fragmented environment limits the potential for revenue raising possibilities from licensing fees, duties and taxation, which could better fund regulatory activities as well as help to address societal issues associated with problem gambling. Moving to a unified regulatory approach would lessen the potential for duplication of resource needs and would enhance streamlining and coherency of approach.
12. On the basis of the foregoing, the IDWG recommended the creation of a new, adequately resourced, independent regulatory body with adequate resourcing and clear statutory powers with respect to licensing, compliance and enforcement of all gambling activities.

### Consolidation of Licensing

13. The IDWG, in its March 2019 report, noted the general licensing approach to gambling activities set out in the 2013 General Scheme. However, it was very much of the view that a significant rationalisation of the numbers and categories of licences proposed in 2013 was required along with further amendment and updating. The IDWG considered that the future licensing approach should be one that broadly provides for the current *de facto* position where persons can avail of a wide range of land-based and online gambling activities. This approach would have the objectives of effective licensing and regulation for the benefit of both the industry and of consumers

and protected persons, deterring criminal activity, increasing taxation yield to the Exchequer, and, potentially, increasing employment and tourism opportunities.

14. The IDWG agreed that a proposed new gambling regulator should be the responsible body for the receipt of applications for licences and equipped with the power to determine as to whether to approve licences, and what conditions might apply. The transfer of all licensing-related responsibilities would ease the related administrative burden on the Revenue Commissioners and An Garda Síochána. However, it was felt that An Garda Síochána and local authorities should be empowered to comment on, and to oppose where necessary, any application for a licence for reasons within their particular competences.
15. The IDWG advocated that a new reformed licence process must be clearly set out in legislation. All applicants should be aware of the information required and the costs involved in support of the application for a gambling licence. Applicants should also be made aware of the likely period involved in assessing their applications.
16. The IDWG accepted that there is capacity for significantly increasing the licence fees currently charged to gambling companies, particularly when consideration is given to licence fees charged in other EU Member States.
17. The IDWG was conscious that any future licensing regime should not discriminate between physical forms of gambling and gambling online in a way that might give rise to legal challenge. In any event, the latter appears to be increasingly displacing land-based activities, and the IDWG concluded that the ultimate licensing approach must reflect that fact.
18. The most significant growth in the international gambling sector has been in the online sphere over the last decade. Advances in technology have accelerated a move from land-based to the online arena. There is a growing number of offshore gambling operators offering betting services or 'betting intermediary services' in Ireland. At present, these operators are required to obtain a remote bookmaker's licence or remote intermediary's license from the Revenue Commissioners.
19. New legislation is essential to provide for a modern, pragmatic and realistic approach to the licensing of a significant and complex leisure and economic activity with an increasing online manifestation and with cross-border dimensions. Such legislation should reflect the reality of the various gambling activities available in the State and recognise the impact of technology on the conduct of such activities. The IDWG also expected that the proposed legislation would help to lessen the effect of criminality on our society in terms of addressing money-laundering conducted in the guise of gambling.

#### Balancing regulation with consumer needs

20. Gambling activity is of significant economic impact in Ireland. In 2017, betting duty (set at 1%) amounted to €52.2 million, suggesting a market size of €5.22 billion. National lottery ticket sales amounted to €800.2 million (up from €750.2 million in 2016). Sales for draw based games amounted to €558.8 million (€529.8 million in 2016), while sales for instant games (scratch-card and interactive Instant Win Games)

were €241.4 million (€220.4 million in 2016). In addition, there are no figures published for revenues from online gaming, gaming in arcades and private members' clubs, bingo (including online) or for the thousands of local community lotteries/raffles in the State. Therefore, it is not unreasonable to estimate the value of the Irish gambling market annually as being between €6-10 billion per annum.

21. According to the Revenue Commissioners, in 2020 there were [243 licensed bookmakers](#) in Ireland operating a total of [790 bookmaking offices](#). The Irish Bookmakers Association (IBA) puts that figure slightly higher at 813 shops currently in operation.
22. The IDWG discussed what consumer protection measures should apply to consumers of gambling activities. It concluded that the provisions set out in the 2013 General Scheme to improve protection for consumers of gambling activities remained broadly valid, subject to some adjustments and updating.
23. The IDWG considered whether increased consumer protection in gambling activities should be achieved through development of existing consumer protection processes and legislation and be the responsibility of the Competition and Consumer Protection Commission (CCPC) or alternatively, should measures and enforcement responsibility be developed specifically for gambling activities. It noted in this regard, that the current domestic and EU legislative provisions did not apply to gambling to an extent that could be considered as providing adequate protection. In practice, the IDWG found that the Irish Competition and Consumer Protection Commission does not have this function and may not, in any event, be adequately equipped for it.
24. The critical element to improving consumer protection in relation to gambling, the IDWG believed, was the establishment of a new regulatory body. The IDWG concluded that the regulatory body should further enforce all new licensing conditions and other provisions designed to prevent unfair practices by operators in relation to gambling services and activities. Compliance in this regard would be part of the licensing requirements for gambling operators, and of any relevant codes to be developed. The regulatory body should also be the competent authority for the purposes of EU or international consumer protection co-operation in the gambling sector.
25. The IDWG, in recommending a new regulatory body as the primary agency for the protection of the gambling consumer, appreciated that there may be constitutional limits on its ability to impose fines or administrative sanctions on gambling operators.

#### Safeguards and the establishment of a Social Impact Fund

26. The IDWG was further of the opinion that, in respect of the issue of gambling addiction, a Social Impact Fund should be established with the purpose of promoting socially responsible gambling and assisting (in conjunction with other bodies) in counteracting the ill effects for players, their families and society. Some of the specific purposes of the Fund will be to:
  - fund research, training and community interventions into treatment of gambling addiction;

- fund public education and awareness raising programmes and the production of relevant information materials; and
  - appropriately support the funding of the provision of services to treat gambling addiction by suitable bodies, through other State bodies and agencies;
27. The issue of problem gambling has been a primary focus of Irish media discussion on the regulation of gambling.
28. The establishment of a Social Impact Fund, which would be funded through mandatory industry contributions.
29. The new General Scheme also proposes safeguards for consumers, including:
- no promotion of gambling to children - the 18 year age limit must be strictly observed;
  - a ban on gambling on credit;
  - the development of an Exclusionary Register to assist and protect persons prone to problem gambling;
  - the regulation of advertising, promotions and sponsorships in relation to gambling in cooperation with the gambling industry and with other relevant statutory bodies.

## **General Scheme of the Gambling Regulation Bill**

### Structure of the Board

30. The Authority (Board) shall be comprised of a number of members and an appointed Chairperson, with relevant commercial experience including in gambling, regulatory and appropriate related sectors. It shall be the responsibility of the Authority (Board) to set the strategic direction of the organisation, having regard to its statutory functions and objectives.
31. The Chief Executive of the new regulatory body shall be responsible for implementing the policies and decisions of the Authority, managing the Authority's staff, administration and business and performing any other duties as required by the Authority or as defined under the legislation. The Chief Executive will be the Accounting Officer for the Authority which shall have its own Vote.

### Regulatory power and the role of the Government

32. As currently provided for in the General Scheme, the Authority will be responsible for the regulatory oversight of the gambling industry and the enforcement of same, while the Government will maintain overall policy responsibility given the potential impact on business and livelihoods. This regulatory oversight will include:

- the licensing, supervising and enforcing the provision of gambling services in the State;
- protecting and promoting the interests of consumers relating to the provision of gambling services;
- specifying the gambling activities, products and services that may be offered in the State;
- determining stakes to participate in games and prize limits;
- specifying the process and procedures when applying for a licence;
- determining terms and conditions attached to a license;
- determining licence fees payable by licence holders; and
- developing codes of practice/conduct associated with the conduct of business and specifically in relation to the promotion and advertisement of gambling etc.

#### Transitional Arrangements

33. The General Scheme provides for extensive transitional arrangements to ensure that there is no gap between the existing statutory framework to regulate gambling activities in the State and the proposed regulatory framework being introduced by this General Scheme.
34. It shall be the responsibility of operators who hold licences under the existing regulatory framework to continue to ensure that they hold a valid licence while they apply for new ones under the proposed legislation, as the Authority shall not have responsibility for licences issued by another body.
35. It is envisaged that the legislation relating to the existing licensing regime shall not be repealed until there are no more licences in operation under those Acts and all parties are satisfied for the Authority to operate as the sole (gambling) licensing body in the State.

#### Sanctions

36. The overall policy approach is to encourage compliance by gambling providers with the new legislation and with any standards and requirements set by the Authority, and to deter non-compliance. In order to be effective, the Authority must be equipped with a range of appropriate and legally robust powers to deal with a wide variety and varying levels of non-compliance. Administrative financial sanctions (based on scalability and proportionality), subject to Court confirmation, and a range of other sanctions are proposed. In addition, it is proposed that the Authority would be legally empowered to bring summary prosecutions itself (while the prosecution of indictable offences would be handled by the Office of the Director of Public Prosecutions).

## Appeals and complaints

37. The General Scheme sets out an appeals system for licensees, licence applicants and consumers based on similar provision in the Property Services (Regulation) Act 2011 with an Appeals Board. There is also provision for formal mechanisms for the making of complaints.

## **Stakeholder Engagement and other Consultation**

38. The Bill will undergo pre-legislative scrutiny with an opportunity for stakeholder engagement as part of that process. Extensive consultations took place with Government Departments, in particular through the Inter-Departmental Working Group on Future Licensing and Regulation of Gambling in 2019. A European Commission funded report (the McCann FitzGerald Report) on the structure of a Gambling Regulator – *Final Report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland*, was also produced.
39. The Department hosted a seminar in May 2019 - *Future Licensing and Regulation of Gambling in Ireland*. The seminar was attended by major industry stakeholders, representatives of the UK Gambling Commission, the European Gaming and Betting Association, the Irish Bookmakers' Association.
40. In recent years, detailed consultations took place with European counterparts including the Gambling Regulators European Forum (GREF), the UK Gambling Commission and the Maltese Gaming Association.

## **Enforcement and Compliance**

41. The General Scheme provides for the Gambling Regulatory Authority to have a full suite of powers with regard to monitoring compliance and also related enforcement, including inspection and investigation.

## **Publication**

42. This RIA is available on the Department's website: <http://www.justice.ie/en/JELR/RIA-Gambling-Regulation-Bill.pdf/Files/RIA-Gambling-Regulation-Bill.pdf>

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