

BETTING, GAMING & LICENSING

General Scheme of the Gambling Regulation Bill unveiled

An outline of the long anticipated legislation to reform Irish gambling laws and establish an independent gambling regulator has now been published. The 224-page General Scheme of the Gambling Regulation Bill was unveiled on 21 October 2021 by James Browne TD, the Minister of State at the Department of Justice who has been tasked with responsibility for gambling law reform.

The Scheme sets out the framework for the future regulation of all forms of gambling services in Ireland. It also provides for the establishment of a new independent regulator, the Gambling Regulatory Authority of Ireland. It is significantly more comprehensive and advanced than previous versions published in 2013 and 2018.

Although it is intended that the new regulator will ultimately be self-funding, €500,000 been set aside by the Irish government in this year's budget for its establishment, to take place side by side with the progression of the draft legislation. This measure in particular appears to suggest a renewed determination to move forward with implementing meaningful Irish gambling law reform.

We summarise in this update some key headlines from the Scheme.

7 MIN READ

A comprehensive new licensing regime for all forms of gambling

As anticipated, the Scheme proposes the introduction of a comprehensive licensing regime for all forms of in-person and remote gambling activity in Ireland – including gaming, betting and lotteries. This is a welcome but long overdue development, as to date only betting has been fully regulated, with licences for gaming being effectively limited to ‘amusement halls’ and ‘funfairs’.

It is planned that there will be three broad types of licence. The detail on what gambling activities, products and services that can be offered under each licence will be specified by the Gambling Regulatory Authority. The three licence types include:

- **‘Business to customer’ (B2C) licences** for in-person and remote gambling activities. There will be different categories of licence to cover gaming, betting and lotteries, depending on what services the operator offers. Similar to the existing licensing regime for remote betting operators under the Betting (Amendment) Act, 2015, foreign operators will be required to have an Irish licence when offering any form of gambling services to customers in Ireland.

- **‘Business to business’ (B2B) licences** for individuals and corporates who provide gambling products or related services to Irish licence holders wherever they are located. It is also envisaged that individuals and corporates established in Ireland that provide hardware, software or equipment, related to gambling products and software, to parties outside of Ireland will also require an Irish B2B licence.
- There will be a separate licence type available for organisations promoting gambling products or services for **charitable or philanthropic causes**, including sports clubs, community organisations and charities.

Notably, the Scheme proposes the introduction of a requirement that, in order to apply for a licence, licensees’ and their operations must be based in either the European Economic Area, the UK, Northern Ireland or “*any country or territory specified*” by the Gambling Regulatory Authority. This has the potential to be a very significant change, and one of concern to operators, although in practice it will depend on the extent of any list of specified countries or territories as developed by the Authority.

It is proposed to retain the exemption on having a licence for games or lotteries which are promoted in conjunction with

the “*promotion, selling or marketing of a particular product or service*”. However the maximum prize fund amount is set to be doubled to €5,000 from the current limit of €2,500 under the Gaming and Lotteries (Amendment) Act, 2019, so this will materially widen the scope of its application.

Licence application process

Although the Scheme runs to a lengthy 224 pages, it envisages that the legislation will be largely principles based, with a lot of the detail to be determined in the form of guidance and codes issued by the new Gambling Regulatory Authority. This includes the licence application process and the level of licence and other administrative fees payable. This is a welcome development which should help to ensure that the legislation, once it is enacted into law, will then not require overly frequent amendment. There is a strong sense that the Authority will be delegated a significant amount of power to allow it to get on with the business of regulating and responding to the quickly evolving nature of the industry.

While it seems that the licence application process will maintain the concept of a “relevant officer”, in line with the current licensing regime for remote bookmakers

and betting intermediaries, there will be a significant increase in the level of information that applicants will have to provide in order to obtain a licence. This will include, for example, details of the applicant company's beneficial owners, copies of business plans, details on the locations of all servers and provider, and details of all software and systems that they use.

In assessing licence applications, it is also envisaged that the Gambling Regulatory Authority may conduct interviews with licence applicants, carry out checks, analysis or scrutiny as it deems reasonable, visit the premises and request additional information.

While it is not yet clear what timeframes will apply to applications for the new licensing regime, it seems likely that the licensing process will take longer than applications under the Betting (Amendment) Act 2015.

Consumer protection provisions

Consumer and player protection is a key objective of the planned new legislation and regulatory regime, with Part 5 of the Scheme making extensive provision for the safeguarding of players. In particular, it is envisaged that the Gambling Regulatory Authority will have significant delegated power to develop codes relating to

advertising, sponsorship and promotions.

As regards advertising, the Scheme provides that such codes will cover: (i) the times, each day, when gambling may be advertised on television, radio etc; (ii) the volume and frequency of gambling advertisements during sporting event broadcasts; (iii) the use of animated characters, children, and well-known figures in advertising; and (iv) the use of certain statements relating to chances of winning and statements exerting pressure to gamble in advertisements, to mention but a number of areas for regulation in this space.

As regards sponsorship, the Scheme envisages that the sponsorship of events involving, or predominantly appealing to persons under 18, will be prohibited.

Other proposed safeguards include:

- A prohibition on extending any form of credit facility or loan to players;
- Requirements to display clear warnings outlining the risks of gambling;
- Equipping the Authority with power to develop codes on spending limits, gambling websites, software and information provided to players about their gambling habits;
- A prohibition on offering inducements such

as free bets, VIP or preferential treatment;

- The establishment of an “exclusionary register” for persons who voluntarily request or consent to being excluded from entering all or certain premises or accessing all or certain licensed games.

While these proposals, and the new regulatory regime are likely to be welcomed by the industry generally, there have already been clear signals that the proposal to prohibit free bets may attract strong opposition.

Social Impact Fund

The Scheme also provides for the establishment of a Social Impact Fund to treat problem and gambling addiction and to fund research, training, public education, awareness raising programmes and the production of materials. It will be funded from operator contributions, the amount of which will depend on the operator's size of operations and turnover, and which will be separate to licence fees. It is envisaged that an advisory committee will assist and advise the Gambling Regulatory Authority in managing the Social Impact Fund.

Monitoring compliance and enforcement

There is a clear emphasis in the Scheme on ensuring that the Gambling Regulatory Authority can effectively enforce the proposed new legislation and regulatory regime. Similar to other Irish regulators, it will have a broad range of powers to tackle non-compliance, from the ability to conduct inspections and investigations, to the imposition of fines and the pursuit of prosecutions where necessary.

In particular the Authority will have powers to:

- Issue compliance notices and warnings;
- Deal with customer complaints;
- Suspend, revoke or vary licences, and to take steps to suspend payments to a licensee;
- Impose administrative financial sanctions, including fines of up to €20m on individuals or 10% of the relevant turnover on corporates if that exceeds €20m (subject to Court confirmation);
- Prosecute summary offences of its own volition, or refer indictable

matters to the Director of Public Prosecutions. Notably, the Scheme provides for potential criminal liability on the part of company officers for offences committed with their consent or connivance, or attributable to any neglect or willful neglect on their part.

The Scheme also includes provisions relating to information sharing with other regulators, to enhance its effectiveness. It is also envisaged that the Gambling Regulatory Authority will be appointed as the national competent authority for anti-money laundering and counter terrorist financing supervision in respect of gambling operators and their activities.

Next steps and timing

Earlier this year, the Department of Justice outlined its targeted timeframes for the reform of Irish gambling law and the establishment of a regulator in its 'Justice Plan 2021'. This envisaged that the Scheme would be published in Q3 2021. Its release on 21 October 2021 is only a few weeks behind schedule.

This suggests that the planned reform remains reasonably on track for the legislation to be developed and enacted in early 2023. A strong indicator of government determination to regulate this area, is the parallel establishment of the Gambling Regulatory Authority, which is to be progressed alongside the legislation so that it is up and running when the Act is commenced. If that timeline is achieved, it would mean that there would be no renewal of current betting licences issued under the Betting (Amendment) Act, 2015, as these are scheduled to expire on 30 June 2023 in line with the two year licensing period.

We will be closely tracking the progression of this legislation and the establishment of the new Gambling Regulatory Authority and will continue to provide regular updates on material developments. If you have any queries, please contact [Katie O'Connor](#), [Joe Kelly](#), [Jennifer O'Brien](#), or any member of the [Betting, Gaming and Licensing](#) team.

Key contacts



Katie O'Connor
Partner
+353 1 649 2591
koconnor@algoodbody.com



Joe Kelly
Partner
+353 1 649 2429
jkelly@algoodbody.com



Jennifer O'Brien
Solicitor
+353 1 649 2890
jobrien@algoodbody.com