

Developments in Irish Gambling Law

Report of the Inter-Departmental Working Group

In May 2018, we reported that David Stanton, the Minister for State in the Department of Justice and Equality with special responsibility for gambling, had established an inter-departmental working group to report on the changes required to update and improve the Scheme for a Gambling Control Bill which the Government had published in 2013. Read our update here:

www.algoodbody.com/insights-publications/update-on-irish-gambling-control-bill-2018

Independent Gambling Regulatory Authority

On Wednesday, 20 March 2019, the inter-departmental working group published its report and presented it to the Irish Government for approval. The key recommendation in the report is for the establishment of an independent gambling regulatory authority to oversee all gambling activity in Ireland. The Government approved the establishment of that regulatory authority.

The Government will now draft the heads of a new Gambling Control Bill. This will be done in parallel with research currently being undertaken on what is required to establish an effective regulatory regime and regulator. That research is being supported by funds from the Structural Reform Support Service of the European Commission. The research is expected to be completed by mid-summer 2019.

Key recommendations of working group

Some of the other key recommendations of the working group's report are that:

- The new regulator should aim to be self-financing
- The number of proposed gambling licence categories set out in the 2013 Scheme, should be significantly reduced. The report recommends the following broad categories of licences:
 - » betting
 - » gaming and lotteries
 - » gaming machines
 - » bingo
 - » casino
 - » online gambling
- Existing betting, gaming and lottery permits and licences issued under the Totalisator Act 1929, Betting Act 1931 and the Gaming and Lotteries Act 1956 should be valid for a suitable transition period
- When considering applications for gambling permits and licences, the regulator shall:
 - » determine the beneficial ownership and control of any applicant company
 - » carry out stringent "fit and proper" checks on all applicant companies and key personnel
 - » ensure that applicants locate their servers in Ireland or in an EU or EEA State and provide an indemnity bond to ensure that all potential liabilities to players are honoured
 - » ensure that age verification systems are in place before allowing players access to the service
 - » ensure that applicant companies do not offer play-for-free-games
 - » be responsible for setting stake and prize limits for gaming machines (subject to Ministerial approval)

- The new regulator will be authorised to determine applications for licences for the sale of alcohol in licensed casinos. It will also have regard to potential “grandfather” rights of existing private member clubs when considering applications for a casino licence
- The Government should give consideration to the eventual absorption of the functions of the National Lottery Regulator into the gambling regulatory authority
- The new regulator should be responsible for ensuring protection of minors and vulnerable persons through enforcement of licence conditions and the prevention of gambling related match fixing and money laundering
- The regulator should develop policies and regulations in respect of all gambling advertising, sponsorships and promotions, in consultation with the relevant Government Departments. It should also consider whether gambling advertising, sponsorship or promotions should carry “health warnings”, perhaps along the lines of those warnings advocated by the financial regulator or those imposed on cigarette and alcohol packaging
- The regulator should be assigned responsibility as the competent authority for AML/CFT supervision of licensed gambling activity operators
- The regulator should develop specific licence terms and conditions to counter the potential for the manipulation of sports events for gain through betting activities
- The regulator should also have a dedicated Sports Betting Integrity Unit
- The regulator should have primary responsibility and a mandate to ensure consumer protection as it relates to gambling activities
- The regulator should develop an Alternative Dispute Resolution (ADR) mechanism to resolve disputes between operators and customers
- The regulator should have the power to implement sanctions including financial and administrative penalties to be imposed on operators who breach licence conditions, and codes of practice designed to ensure consumer protection
- A Social Fund should be established and managed by the regulator

- As an interim reform measure, the report recommends that the current Gaming and Lotteries Act 1956 be updated pending the establishment of the new regulator.

Gaming and Lotteries (Amendment) Bill 2019

Minister Stanton had already prepared the Gaming and Lotteries (Amendment) Bill which will act as an interim measure to update some of our current laws pending the establishment of the new regulator. The Government yesterday approved the publication of that Bill and we expect it to be available shortly. The Bill is intended to modernise aspects of the Gaming and Lotteries Act 1956, by:

- updating certain stake and prize limits for licensed gaming machines (to €10 and €750 respectively)
- standardising the minimum gambling age to 18
- providing for arrangements to better facilitate the promotion of lotteries

District Court refuses to grant certificates for gaming licences

The Dublin Metropolitan District Court recently refused to grant a number of applications for certificates for gaming licences on the basis that the District Court in Dublin has no jurisdiction to issue such certificates. A certificate for a gaming licence is required to form part of an application for a gaming licence to allow gaming machines in an amusement hall.

Revenue Crackdown

The number of applications for certificates for gaming licences had increased sharply following a recent crackdown by the Revenue Commissioners on amusement arcades offering gaming machines which Revenue believe may have been licensed as “amusement machines”. A certificate for a gaming licence is not required if an amusement hall only offers amusement machines and not gaming machines.

The effect of Revenue’s recent crackdown has meant that amusement arcade operators now require a certificate from the District Court to get a gaming licence. However, Dublin City Council’s 1989 decision to rescind its resolution adopting Part III of the 1956 Act has led to the Dublin District Court ruling that it does not have jurisdiction to grant such certificates.

The cost implications of Revenue’s decision for amusement arcade operators are also significant. The licence fee for an amusement machine is €125, whereas a licence for a gaming machine could be €505 per machine.

Local Authority Part III Resolution

Certificates for gaming licenses can only be granted in districts where the local authority has adopted Part III of the Gaming and Lotteries Act 1956. Dublin City Council had originally resolved to adopt Part III, but rescinded that resolution in 1989. The effect of that decision was that no new amusement halls offering gaming machines could be opened within Dublin City.

Appeal by Amusement Arcade Owners

Amusement arcade owners have lodged an appeal against the decision of the District Court. A number of appeals are now listed before the Circuit Court. That Court is considering asking the Court of Appeal to answer a number of questions on points of law relevant to these issues. This is known as a “case stated” procedure.

It has not been formally decided that a case stated will be submitted to the Court of Appeal. However, guidance from the Court of Appeal on this outdated area of law would be welcome.

Funding for new gambling charity board

A new charity, **The Gambling Awareness Trust**, has been set up by stakeholders in the gaming industry to tackle gambling addiction and related issues. It will fund services providing research, education and counselling.

The Gambling Awareness Trust will be an independent body and will receive funding from several sources, including the gambling industry. The Irish Bookmakers Association is expected to make a considerable contribution. The charity is expected to receive over €1m in funding every year.

The Board of the charity will include a number of well-known figures including former Junior Agriculture Minister Tom Hayes and Retired Judge Gillian Hussey.

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