



**An Bille um Chearrbhachas agus Crannchuir (Leasú),
2019**

Gaming and Lotteries (Amendment) Bill 2019

*Meabhrán Míitheach agus Airgeadais
Explanatory and Financial Memorandum*



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EXPLANATORY AND FINANCIAL MEMORANDUM

General

The Bill amends the Gaming and Lotteries Act 1956, which contains the existing provisions governing the permit and licence approach to local gaming and lottery activity.

It is intended to provide an updated regulatory system for local gaming and lottery activity promoted under a permit or licence in Ireland. This modernisation will serve an important public interest in assisting the better promotion of gaming and lotteries, primarily for charitable or philanthropic purposes, preventing potential criminal or fraudulent behaviour and enhancing consumer protection.

A uniform minimum age limit for engaging in gaming and lotteries is to be set at 18 years. In addition, there is the imposition, for the first time, of an age limit for betting with the Tote in accordance with the Totalisator Act 1929.

Stake and prize limits in respect of licensed gaming machines are adjusted upwards, they have remained unchanged since the 1956 Act came into effect.

The Bill makes provision for a prize fund limit of €360,000, where a one-off annual lottery is promoted under a District Court licence.

Detailed Provisions

Definition

Section 1 states that the Principal Act is the Gaming and Lotteries Act 1956.

Amendment of section 2 of Principal Act

Section 2 includes a number of amended or additional definitions of the Principal Act to ensure greater clarity and to reflect the modernisation of that Act.

Prohibition of gaming without permit or licence

Section 3 replaces Section 4 of the Gaming and Lotteries Act 1956 and provides that it is an offence to promote gaming without a permit or licence.

Gaming permits

Section 4 inserts a new section 9A into the 1956 Act. This section concerns the application process for a permit for gaming for either charitable or philanthropic purposes or for the benefit of the promotor. This approach replaces the previous primarily location specific approach to

gaming at circuses, carnivals and in licensed premises contained in sections 6, 7 and 9 of the 1956 Act.

The section further sets out the various conditions that will apply to gaming promoted under a permit issued in accordance with the Act by a Garda Superintendent. The Superintendent will be required to maintain a register of all gaming permits issued, revoked and suspended in their district.

Gaming licences

Section 5 substitutes a new section 14 for that section of the 1956 Act. The amendment concerns essentially the updating of maximum allowable stake and prize amounts. These are increased from 3c and 50c to €10 and €750 respectively. There is a new regulation making power for the Minister for Justice and Equality to amend stake and prize amounts.

The section further makes it an offence to accept a stake from a person under the age of 18 years.

Amendment of section 15 of Principal Act

Section 6 amends section 15 of the 1956 Act in a number of respects.

The deletion of section 15(3) arises directly as a consequence of the repeal of the existing sections 6, 7 and 8 of the Act.

The amendment of section 15(4) arises due to the amendment of the stakes and prize limits in section 14 and the regulation making power contained therein, as well as the offence of allowing persons under 18 years of age to engage in gaming.

Register of Gaming Licences

Section 7 inserts a new section 19A into the 1956 Act that would require the Revenue Commissioners to establish and maintain a register of gaming licences. This approach is inspired by the analogous requirement on Revenue under section 18 of the Betting (Amendment) Act 2015.

Prohibition of lotteries without licence or permit

Section 8 substitutes a new section 26 for that section contained in the 1956 Act. In accordance with the new section, it will be an offence to promote any form of lottery activity without a licence or permit having been issued in accordance with the Act.

Lotteries held for charitable or philanthropic purposes not requiring permit or licence

Section 9 inserts a new section 26A into the 1956 Act. This section is based on the provision in Part B of the approved General Scheme of the Gambling Control Bill 2013 for “*de minimus*” lotteries not requiring a licence or permit, but promoted for the benefit of a charitable or philanthropic purpose and not for promoter benefit.

Lotteries held in conjunction with certain events

Section 10 inserts a new section 27A into the 1956 Act. This section is based on the provision of the General Scheme of the Gambling Control Bill 2013, which allows for the use of sales and marketing promotions, which may involve a lottery element. Such activities will not be subject to a permit or licence, providing the conditionality in the section is satisfied.

Lottery permits

Section 11 inserts a new section 27B into the 1956 Act. This new section details the process involved in an application to a Garda Superintendent for a lottery permit. The section further sets out the conditions and requirements involved following the issue of a lottery permit.

Each Garda Superintendent will be required to maintain a register of all gaming permits issued, revoked and suspended in his/her district.

Lottery licences

Section 12 substitutes section 28 of the 1956 Act with a new section. This section sets out the application process for a lottery licensed by the District Court. It is intended to ensure that the Court is provided with sufficient notice and full details of the proposed lottery activity. The section further provides for the conditions that will apply to a lottery licensed by the District Court.

Prohibition of false statements

Section 13 amends section 30 of the 1956 Act, by relocating the penalty provisions contained therein to an amended section 44 (as inserted by section 18 of this Bill).

Lottery tickets

Section 14 substitutes section 33 of the 1956 Act with a new section concerning information to be contained on lottery tickets. The previous reference in section 33(1) of an exception for sections 23, 24 and 25 concerning private lotteries, lotteries at dances and concerts and at carnivals and other events, is deleted.

However, provision is made for the exclusion of new sections 26A and 27A from the provisions of subsection (1).

Amendment of section 37 of Principal Act

Section 15 amends section 37 of the 1956 Act. The current seizure provision in section 37 of the 1956 Act, relating to gaming instruments (as defined in the Act) is now extended to unlawful gaming machines. The seizure provision would also apply to instruments or machines not being operated in accordance with a licence in a revised subsection (1).

Amendment of section 41 of Principal Act

Section 16 amends section 41 of the 1956 Act, by relocating the penalty provisions contained therein to an amended section 44 (as inserted by section 18 of this Bill).

Amendment of section 42 of Principal Act

Section 17 amends section 42 of the 1956 Act by extending its provisions to include gaming machines in addition to gaming instruments.

Offences

Section 18 substitutes section 44 of the 1956 Act with a new offences section. Penalties for all offences – existing or new - under the 1956 Act, as amended, are located in one section. The possible sanctions that might be imposed on conviction are updated.

Corporate bodies are also subject to the consolidated penalty provisions under section 44.

Revocation or suspension of licences and permits

Section 19 substitutes section 46 of the 1956 Act with a new section. The section provides that a court may suspend or revoke a permit or licence upon conviction for an offence under the Act. An appeal to the Circuit Court is provided for with the decision of that Court being final. There is also provision for notification to the Revenue Commissioners and An Garda Síochána of such decisions.

Amendment of section 47 of Principal Act

Section 20 amends section 47 of the 1956 Act by providing that the current forfeiture provision for gaming instruments be extended to provide also for forfeiture of gaming machines used in the commission of an offence under the Act or in the case of a conviction under section 4 of the 1956 Act.

Amendment of section 48 of Principal Act

Section 21 amends section 48 of the 1956 Act by extending the provision for the Court to order destruction of documents relating to a lottery to provide also for destruction of documents relating to a gaming activity.

Amendment of section 50 of Principal Act

Section 22 amends section 50 of the 1956 Act and provides for the regulation making power with regard to the keeping of accounts and other records of permits for gaming and lotteries issued by the Gardaí, to now be vested in the Minister for Justice and Equality, rather than the Garda Commissioner, who would be consulted in the matter.

Regulations

Section 23 inserts a new section 50A into the 1956 Act. A regulation making power for the Minister for Justice and Equality was inserted into section 28A of the 1956 Act through section 51 of the National Lottery Act 2013. As the repeal of section 28A is now proposed, this regulation making power is re-stated in this section.

Repeals and transitional provision

Section 24 details the sections of the 1956 Act proposed to be repealed by the Bill. The section also contains a transitional provision dealing with lottery permits in force at the time of the proposed repeal of section 27 of the 1956 Act.

Amendment of the Totalisator Act 1929

Section 25 amends the Totalisator Act 1929 by inserting a new section 4A into that Act. This new section introduces for the first time, an age limit for betting on the Tote. The penalties imposed under subsection (2) mirror those contained in the Betting Act 1931 for engaging in betting transactions with persons under the age of 18 years.

Short title, collective citation, construction and commencement

Section 26 provides for the short title, collective citation and commencement of the Act.

Financial Implications of the Bill

There will be minimal or no monetary costs to the Exchequer as the proposals in the Bill will build on and update the existing licence and permit issuing system for gaming and lottery activities.

*An Roinn Dlí agus Cirt agus Comhionannais,
Márta, 2019.*