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**An Bille Gealltóireachta (Toirmeasc Ar Úsáid Cártaí  
Creidmheasa), 2021**  
**Betting (Prohibition On Use of Credit Cards) Bill 2021**

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*Meabhrán Míniúcháin*  
*Explanatory Memorandum*

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**AN BILLE GEALLTÓIREACHTA (TOIRMEASC AR ÚSÁID  
CÁRTAÍ CREIDMHEASA), 2021  
BETTING (PROHIBITION ON USE OF CREDIT CARDS)  
BILL 2021**

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**EXPLANATORY MEMORANDUM**

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**Purpose of the Bill**

The purpose of this Bill is to provide, in the interest of the common good, for the prohibition on the acceptance of bets by holders of betting licences under the Betting Act 1931, either directly or as an intermediary, by means of the use of credit cards or of other systems to the like effect as a credit card.

Title IV of the Treaty of the Functioning of the European Union (TFEU) provides for the “Free Movement of Persons, Services and Capital” (Articles 45 to 68). However, in certain cases a restriction may, by way of derogation, be allowed to such free movement on grounds of public policy, public security or public health.

In addition, there are a number of judgments of the European Court of Justice on the freedom to provide services in the context of betting. In the case of *Stanleybet International Betting Ltd.*<sup>1</sup>, , the Court of Justice (Third Chamber) at paragraph 48 states:

*.... it is settled case-law that restrictions on betting and gambling may be justified by overriding reasons in the public interest, such as consumer protection and the prevention of both fraud and incitement to squander money on gambling (judgment in Digibet and Albers<sup>2</sup>, see paragraph 23 and the case-law cited).*

**Background**

The use of credit cards in gambling has been found to be particularly problematic due to the ease by which they can be obtained, the potential to play without natural breaks and the amount of potential debt that could have profound impacts on the lives of those effected<sup>3</sup>. With almost 55,000 people in this State engaged in serious problem gambling behaviours, it is absolutely necessary that the use of credit cards in this way be prohibited. While voluntary Codes of Conducts have been introduced, legislative footing for these protections is now needed.

<sup>1</sup> EU:C:2015:25 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=ecli:ECLI:EU:C:2015:25>)

<sup>2</sup> EU:C:2014:1756 (<https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX%3A62013CJ0156>).

<sup>3</sup> Gambling Research Exchange Ontario. Sztainert, Travis and Baxter, David G and McKnight, Sheila and Voll, Jess (2020) The role of credit cards in gambling. Guelph, ON: Gambling Research Exchange Ontario. Report prepared for the Gambling Commission, Birmingham, UK.

## Provisions of the Bill

*Section 1* is a standard form provision. It defines “Principal Act” and the “Act of 2015” for the purposes of the Bill.

*Section 2* amends section 5C (revocation of certificate of personal fitness) of the Betting Act 1931 by inserting a paragraph (c) into subsection (1). This would enable the revocation by the Minister for Justice of a certificate of personal fitness where the holder of the licence to which the certificate relates has not complied with an undertaking given to the Revenue Commissioners under section 7CA (as proposed to be inserted by *section 3* of the Bill). Such revocation would be subject to any appeal under the existing section 13A of the Betting Act 1931 to the District Court by the person concerned.

*Section 3* amends the Betting Act 1931 by inserting a new section 7CA (issue of licence and restriction on use of credit cards for betting, etc.). Subsection (1) of this proposed new section provides that a betting licence to which section 7, 7A, 7B or 7C of the Betting Act 1931 relates will not be issued by the Revenue Commissioners unless an undertaking is given by the applicant. The undertaking (to be in a form to be prescribed by the Minister for Finance under section 35(2) of the Betting Act 1931) being that where the licence is issued then the applicant as holder of the licence—

- will not accept a credit card for the purpose of placing a bet,
- will not accept bets via an electronic wallet provider, or by a provider using another system to the like effect, unless the provider has given to the holder of the licence an assurance that the provider’s system prevents, or there are other controls put in place to prevent, the use either directly or indirectly of a credit card for the purpose of placing a bet, and
- will take all reasonable precautions to ensure that that assurance is complied with by the provider.

Subsection (2) of proposed section 7CA relates to holders of licences under the Betting Act 1931 at the time that this Bill is commenced (see *section 5(3)* of the Bill). Licences issued under sections 7, 7B and 7C of the Betting Act 1931 are made for periods of up to 2 years to specified dates (see definition of “licence final day” in each of those sections). Licences issued under section 7A of that Act are made for a period of up to one year ending on 30th November. In order to enable this bill (when enacted) to have effect in respect of existing licence holders within a reasonable period after the its commencement, section 7CA(2) provides that if the period of the licence concerned has more than 3 months to run after commencement of the Act, then within 3 months of such commencement the holder of the licence is required to give an undertaking which, in effect, is in similar terms to that to which *subsection (1)* relates.

*Subsection (3)* states that where the provider of a system to which *subsection (1)(b)* or *(2)(ii)* of that section relates (i.e. an electronic wallet or another system to the like effect) fails to comply with an assurance given to a licence holder, then the provider commits an offence. The penalty provided for on summary conviction being an amount not greater than €5,000 (a class A offence under the Fines Act 2010) or imprisonment for a term not exceeding 6 months, or to both. On indictment, the penalty provided for is a fine with no limit specified or imprisonment for a term not exceeding 2 years, or to both. However, under *paragraph (b)* of this subsection it would be defence for the person charged with an offence to show that all reasonable steps were taken and all due diligence was exercised to avoid the commission of the offence.

*Section 4* amends section 16 (revocation of certain licences) of the Betting Act 1931 by inserting an additional ground as paragraph (c) of subsection (2) enabling an application to be made to the District Court by the Minister for Justice seeking revocation of a licence under the Betting Act 1931 on the basis that the holder of the licence concerned has not complied with an undertaking given to the Revenue Commissioners under section 7CA (see *section 3* of this Bill).

*Section 5* is a standard form provision and provides for a short title, commencement and collective citation for the bill as enacted.

*Thomas Gould, TD,*  
*Deireadh Fómhair, 2021.*