

Gambling Regulation Bill 2022

Bill No. 114 of 2022

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Abstract

The [Gambling Regulation Bill 2022](#) provides for the following:

- the creation of a new Gambling Regulatory Authority to oversee the licensing, supervision and control of gambling activities in the State;
- a modernised licencing regime for gambling activities in Ireland;
- measures to protect consumers and tackle the harmful effects of gambling;
- safeguarding measures to protect children and other vulnerable persons, including new provisions surrounding gambling advertising and sponsorship;
- an updated compliance and enforcement regime; and
- the revocation of the *Totalisator Act, 1929*, the *Betting Act 1931*, and the *Gaming and Lotteries Act, 1956*.



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Summary

The [Gambling Regulation Bill](#) (the “Bill”) was published on 2 December 2022 along with an [Explanatory Memorandum](#). Second stage debate is scheduled for 6 December 2022.

The Bill is comprised of nine Parts, which in turn include 218 sections, and three Schedules:

- Part One (sections 1-9): Preliminary and General
- Part Two (sections 10-55): Gambling Regulatory Authority of Ireland
- Part Three (sections 56-64): Provisions Applicable to Authority, Appeals Panel and Adjudication Officers
- Part Four (sections 65-80): Prohibitions and Offences (General)
- Part Five (sections 81-136): Licencing of Gambling Activities
- Part Six (sections 137-170): Obligations on Licensees and Other Persons
- Part Seven (sections 171-173): Complaints
- Part Eight (sections 174-212): Compliance with and Enforcement of relevant Obligations of Licensees
- Part Nine (section 213-218): Appeals

The primary aims of the Bill, as set out in its Long Title, are:

- “to provide for the establishment of a body to be known as ‘Údarás Rialála Cearrbhachais na hÉireann’ or, in the English language, the Gambling Regulatory Authority of Ireland for the purposes of licensing and regulating betting, gaming, certain lotteries and the sale or supply of products or services related to gambling;
- to provide for the funding of that Authority by means of imposition of a charge on licensees;
- to provide for the establishment and maintenance of a register of persons who hold gambling licences in the State and a National Gambling Exclusion Register;
- to provide for the establishment of a Social Impact Fund to, among other matters, finance research into, raise awareness of, and eliminate or reduce, compulsive and excessive gambling;
- to provide for contributions to the Fund by certain licensees;
- to provide for the imposition of obligations on those licensees including obligations relating to advertising, promotion and sponsorship for the purposes of safeguarding persons participating in gambling;
- to provide for the prohibition of children participating in gambling or being employed in the gambling industry;
- to provide, for the purposes of ensuring conditions attached to gambling licences and obligations imposed on licensees are complied with, for compliance and enforcement measures; and
- for those and other purposes to repeal the Totalisator Act 1929, the Betting Act 1931, the Gaming and Lotteries Act 1956, to revoke certain statutory instruments and to provide for the consequential amendment of certain other enactments; and

- to provide for related matters”.¹

This Bill Digest contains:

- a discussion of the background to the Bill;
- a discussion of the Principal Provisions of the Bill; and
- an analysis of the extent to which the provisions of the Bill reflect the recommendations of the Joint Committee on Justice arising from the pre-legislative scrutiny of the Bill.²

Key Messages

A new Gambling Regulatory Authority of Ireland

Part Two of the Bill provides for the establishment of an independent **Gambling Regulatory Authority of Ireland** (the “Authority” or “GRAI”) comprised of seven members appointed by the Minister for Justice from amongst suitably qualified individuals recommended by the Public Appointment Service following a competitive selection process and reflecting a gender balance. The Authority shall be accountable to the Minister for Justice for the performance of its functions, which shall include the licensing, supervision and control of gambling activities in the State. The Authority is permitted to make regulations concerning various aspects of its functions.

In accordance with **section 38**, it is anticipated that the operational costs of the Authority will be funded from advances made to it by the Minister for Justice for the initial three years of its operation and from charges imposed on licensees in accordance with **section 39** thereafter. In accordance with **section 36**, the Authority shall, with the consent of the Minister, prescribe the fees payable on the making of applications for gambling licences and for renewals of licences.

Part Nine provides that appeals may be made by licensees and proposed licensees in respect of decisions of the Authority, including with regard to the imposition of charges on licensees and in relation to the Authority’s licensing and compliance and enforcement functions. Appeals may be made to an Appeals Panel (to be established pursuant to **section 216** and to include at least five independent members) or to the Circuit Court.

Pursuant to **section 14** the Authority is also a competent authority for the purposes of the *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010*.³

Subject to data protection law and with a view to enabling it to perform its statutory functions, the Authority may enter into information-sharing agreements with certain persons within the State, for

¹ Gambling Regulation Bill (published on 2 December 2022) Long Title, at p. 13, available [here](#) [last accessed 5 December 2022].

² The Bill Digest omits a Table of Provisions due to the length of the Bill. As the Bill was only published on 2 December 2022 with second stage debate scheduled for 6 December 2022, the Bill Digest focuses on Principal Provisions and Key Themes.

³ This reflects a recommendation of the Inter-Departmental Working Group on the Future Licensing and Regulation of Gambling (IDWG), ‘Report to Government’ (March 2019) p. 64, available [here](#) (last accessed 18 November 2022).

example, the Corporate Enforcement Authority, and with persons outside the State performing similar functions to the Authority.

A reformed licensing regime for gambling activities in Ireland

Parts Four and Five provide for a modernised licencing regime for gambling activities in Ireland with all applications for gambling licences under the Bill to be submitted to the Authority.

Part Five permits the Authority to issue Business to Consumer gambling licences, Business to Business gambling licences, and gambling licences for a charitable or philanthropic purpose. The Business to Consumer gambling licences provided for under the Bill include betting licences, gaming licences and lottery licences, which may be issued for in-person gambling activities and/or for gambling activities offered by remote means, as well as a remote betting intermediary licence.⁴ The Bill allows for bookmakers with the appropriate licence to offer pool betting services, both in person and remotely. The Business to Business gambling licence authorises licensees to sell or supply, directly or indirectly, a gambling product and/or a gambling related service to another licensee in the State or to a person outside the State.

The Bill imposes restrictions on gambling licences issued for a charitable or philanthropic purpose, including a requirement that at least 30% of the total payments made to participate in the gambling activity be used for the charitable or philanthropic purpose.

The Bill continues to provide for exemptions from the requirement to hold a gambling licence for certain small stakes lotteries held for a charitable or philanthropic purpose or in conjunction with the selling or marketing of a product or a service.

The Bill requires applicants for gambling licences to submit an extensive amount of information and documentation, which appears to be aimed at preventing people with connections to crime from obtaining ownership or control of a gambling business.

Sections 129 and 130 also require licensees of a Business to Consumer gambling licences, other than lottery licences for a once-off lottery, to establish a Segregated Customer Account in a bank.

Section 89 requires the Authority to establish and maintain a register of gambling licences, thereby taking over equivalent duties currently discharged by a multitude of regulatory bodies under the existing legislation.

Safeguarding measures and measures to tackle the harmful effects of gambling

The Bill includes multiple measures aimed at tackling the harmful effects of gambling, and safeguarding children and vulnerable persons.

In accordance with **Chapter Four of Part Two**, the Authority shall establish a Social Impact Fund, which will be funded via contributions from licensees and will perform functions aimed at raising awareness of, and combatting the harmful effects of, compulsive or excessive gambling. In accordance with **section 31**, the Authority may also undertake, commission or collaborate with research projects in relation to gambling or gambling activities.

⁴ Section 2 defines “remote means” as “any means by which a person can participate in gambling otherwise than in-person including by using— (a) the internet, (b) a telephone, or (c) a television”.

In accordance with **Chapter Three of Part Two**, the Authority shall establish a National Gambling Exclusion Register, which will contain information on account-holders who have excluded themselves from participating in a relevant gambling activity or activities by remote means.

Section 97 requires that when determining the suitability of a proposed premises from which to provide gambling activities, the Authority shall have regard to its vicinity to both schools and other premises that offer licenced in-person gambling activities.

Part Six imposes extensive obligations on licensees and other persons, which are largely aimed at minimising the harmful effects of gambling advertising, gambling promotion and gambling sponsorship on problem gamblers and vulnerable persons, in particular children.

Section 139 prohibits advertisements of relevant gambling activities, which are targeted at children and other vulnerable persons. **Section 140** requires that any advertisements of relevant gambling activities include a warning regarding the risks of excessive or compulsive gambling and that any advertisement by means of electronic communication has a blocking facility, which is immediately accessible. **Section 141** imposes a restriction on gambling advertisements on television, radio or an on-demand audio-visual media service between the hours of 5:30 a.m. and 9:00 p.m.

Section 142 prohibits the sale, supply, provision free of charge, manufacture for sale in the State or importation for sale in the State of a branded article of clothing or merchandise intended to be worn or used by a child.

Section 143 prohibits the employment of a child or young person in a gambling activity other than a relevant gambling activity for a charitable or philanthropic purpose as defined under the Bill.

Section 148 prohibits a licensee of a Business to Consumer gambling licence and a licensee of a gambling licence for a charitable or philanthropic purpose from offering an inducement to participate in a relevant gambling activity. **Section 149** prohibits these licensees from permitting a child to participate in a relevant gambling activity whereas **Section 150** prohibits them from sponsoring events aimed at children and teams comprised of children.

Section 155 requires licensees of Business to Consumer gambling licences, other than licensees of a lottery licence for a once-off lottery, to ensure that members of their staff who engage with participants in gambling have completed a training programme regarding the harmful effects of excessive or compulsive gambling. **Section 156** requires these licensees to provide participants in gambling activities with a facility whereby they can require that a monetary limit be set for a set period. **Section 157** prohibits these licensees from accepting payment for a relevant gambling activity by credit card or extending a credit facility to a participant.

Chapter Five of Part Six imposes specific obligations on licensees of a remote gambling licence. For example, **Section 161** requires such licensees to verify that applicants seeking to open a gambling account with them have attained the age of 18 years. **Section 166** requires these licensees to ensure that a hyperlink to parental control programmes is displayed on the home page of their website and on each online platform where a relevant gambling activity can be accessed.

Chapter Six of Part Six concerns obligations imposed on licensees of an in-person gambling licence. **Section 169** prohibits such licensees from permitting a child to enter or be on a premises in which a relevant gambling activity is or may be provided. **Section 170** prohibits licensees of an in-person gambling licence from permitting a cash-point on their gambling premises.

Compliance, enforcement powers, sanctions and penalties

The Bill affords the Authority extensive enforcement powers and provides for robust sanctions and penalties where provisions of the Bill are breached.

Section 74 empowers the Authority to apply to the High Court for several orders where it has reasonable grounds to believe that a person is providing a gambling activity, which is prohibited under the Bill.

Section 76 provides that summary proceedings for an offence under the Act may be brought and prosecuted by the Authority.

Section 80 allows for a court to suspend or revoke a licence issued under the Act, where the licensee has been convicted of an offence under the Act.

The Bill creates multiple new offences regarding violations of provisions concerning licensing, the protection of children and vulnerable persons, and sponsorship, advertising and promotion. The majority of these offences may be prosecuted either as summary offences or as indictable offences. The latter are punishable by a fine and/or imprisonment for up to five years or up to eight years depending on the severity of the offence.

Section 73 provides for a new offence of “cheating” at gambling or gambling activity, which appears to be aimed at combatting betting-related manipulation of sporting activities. Notably, **Section 147** obliges licensees of a Business to Consumer licence and licensees of a gambling licence for a charitable or philanthropic purpose to take certain actions if they become aware of a suspicious gambling pattern, which suggests an attempt to influence the outcome of a relevant gambling activity.

Part Eight provides for the Authority’s statutory powers in respect of compliance and enforcement. It provides for the appointment by the Authority of authorised officers with powers to enter, search and inspect relevant premises, and the power to require a person to produce relevant material. In accordance with **section 177(4)**, authorised officers cannot enter a dwelling other than with the occupier’s consent or in accordance with a warrant issued under **section 178**.

Section 179 imposes an obligation on licensees to furnish a compliance report and other information and documentation upon the Authority’s request. **Section 180** permits the Authority to apply to the District Court to compel a licensee to comply with such a request for information.

Sections 181-185 set out the actions that the Authority may take in relation to an alleged contravention of a relevant obligation under the Bill, including entering into a written agreement with the licensee regarding the steps needed to remedy the contravention, the issuance of a notice of non-compliance, or an application to the Circuit Court to have the licensee’s gambling licence suspended or revoked.

Chapter Five of Part Eight permits the Authority to direct its authorised officers to undertake investigations and, upon receipt of the authorised officer’s final report, to take a number of actions, including referring the report to an adjudication officer pursuant to **Chapters Six and Seven**. Under **section 194**, where an adjudication officer decides (on the balance of probabilities) that a licensee is, or has been, in contravention of a relevant obligation, it can impose one or more administrative sanctions, including a financial penalty of up to a €20,000,000, or if greater, 10% of the turnover of the licensee in the financial year preceding the date of the adjudication officer’s decision as to contravention or in any year in which the act or acts occasioning the sanction

occurred. **Section 198** provides for appeals against decisions relating to contravention and administrative sanctions.

Chapter 8 provides that, where the Authority considers that there is an urgent need to act, they may apply to the Court to have the the gambling licence of a licensee suspended with immediate effect or to have the licensee cease providing a relevant gambling activity.

Revocation of existing legislation and review of the Act's effectiveness

The Bill revokes the following legislation, which currently regulates betting, gaming and lottery activities in Ireland with the exception of the National Lottery:

- the Totalisator Act, 1929;
- the Betting Act, 1931; and
- the Gaming and Lotteries Act, 1956.

The National Lottery will continue to be regulated by the National Lottery Act 2013, which will remain in force.

In accordance with **section 32**, The Authority shall review the implementation of the Act within five years of the section coming into operation and, thereafter, from time to time as the Authority may determine.

Glossary and abbreviations

Table 1 Glossary and abbreviations

Term	Meaning
<i>1956 Act, as amended</i>	<i>Gaming and Lotteries Act, 1956, as amended</i>
<i>2013 Act</i>	<i>National Lottery Act 2013</i>
<i>2019 Act</i>	<i>Gaming and Lotteries (Amendment) Act 2019</i>
AGS	An Garda Síochána
ASAI	Advertising Standards Authority for Ireland
BAI	Broadcasting Authority of Ireland
Department	Department of Justice
DOJE	Department of Justice and Equality
EASA	European Advertising Standards Alliance
ESPAD	European School Survey Project on Alcohol and Other Drugs
FOBT	fixed odds betting terminal
HSE	Health Service Executive
IBA	Irish Betting Association
IDWG	Inter-Departmental Working Group Report to Government on the Future Licensing and Regulation of Gambling
Joint Committee	Joint Committee on Justice
NDAS	National Drug and Alcohol Survey

Introduction

It has long been recognised that, with the exception of the [National Lottery Act 2013](#), the legislative and regulatory framework concerning gambling activities in Ireland is outdated and in need of significant reform.⁵ The existing framework does not provide for a coherent licensing and regulatory approach across all gambling activities, is unclear as regards its application to online gambling, requires additional safeguards to protect consumers and vulnerable persons, and fails to maximise the revenue raising possibilities arising from licensing fees, duties and taxation.⁶

The Programme for Government 2020 committed to “establish a gambling regulator focused on public safety and wellbeing, covering gambling online and in person, and [with] the powers to regulate advertising, gambling websites and apps.”⁷ The Department of Justice’s [Statement of Strategy 2021- 2023](#) and the Department’s Justice Plan 2021 (February 2021) set timelines for the fulfilment of this commitment, specifically in relation to the publication of a General Scheme of a new Gambling Regulation Bill and the appointment of a Chief Executive Officer (“CEO”) Designate for the new regulatory body.

The [General Scheme of the Gambling Regulation Bill 2022](#) (the ‘General Scheme’) was published on 21 October 2021. A Regulatory Impact Analysis (RIA) was published in October 2021. The Joint Committee on Justice engaged in pre-legislative scrutiny of the General Scheme and public engagements were convened on [8 March 2022](#) and [22 March 2022](#) respectively. The [Report of the Joint Committee](#) was published in May 2022.⁸

On approving the publication of the Gambling Regulation Bill (the “Bill”) in November 2022, Minister for Justice, Helen McEntee TD, stated:

“At the heart of the bill is the establishment of the Gambling Regulatory Authority of Ireland, an independent body equipped to enforce regulation of the gambling sector.

The bill will ensure that the Gambling Regulatory Authority can appropriately, meaningfully and swiftly respond to ongoing and future developments in the gambling sector.

The focus on preventing harm is of vital importance. As a former minister of mental health and as a local representative, I have seen the damaging impact gambling addiction can have on people and families, particularly on their mental health.”⁹

The Bill provides for:

- “the establishment of the Gambling Regulatory Authority of Ireland

⁵ See, e.g., IDWG, ‘Report to Government’ (March 2019) p. 11, available [here](#) (last accessed 18 November 2022).

⁶ Ibid.

⁷ Department of the Taoiseach, ‘Programme for Government’ (2020) at p. 86, available [here](#) (last accessed 28 November 2022).

⁸ Joint Committee on Justice Report on Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill’ (May 2022) (“PLS Report”) available [here](#) (last accessed 16 November 2022).

⁹ ‘[Government approves Publication of the Gambling Regulation Bill](#)’, [MerrionStreet.ie](#), 15 November 2022; and ‘[Government approves publication of the Gambling Regulation Bill](#)’, [gov.ie](#), 15 November 2022.

- a new streamlined, simplified and coherent licensing framework that reflects the nature of gambling in the State
- the powers of the new Authority to enforce the proposed licensing approach, including provision for administrative sanctions and the prosecution of offences
- the ability of the Authority to address the advertisement of gambling across all forms of media and the sponsorship by licence holders
- safeguards and protections in relation to problem gambling, and for the protection of children, ensuring public safety and well-being, and consumer protection
- the establishment of a Social Impact Fund for the purposes of financing research and information, education and awareness raising measures, and appropriately supporting problem gambling treatment activities by relevant health professionals”.¹⁰

Background

The Oireachtas Library and Research Service has already produced several relevant research materials, which are available for reference purposes.¹¹

Policy and legislative context

The background sections below place the Bill in context. They offer a short introduction to the commercial gambling industry in Ireland, including the main activities and stakeholders, before discussing the economic impact of the industry, the existing legal and regulatory framework, the prevalence of gambling and problem gambling in Ireland, and the extent of gambling-related harms. They also outline the pathway to legislative reform, provide an overview of the RIA undertaken by the Department of Justice and outline the main recommendations arising from the pre-legislative scrutiny of the Bill undertaken by the Joint Committee on Justice.

¹⁰ Ibid.

¹¹ These materials include:

- Eoin McLoughlin and Emily Heery, ‘Note: Regulation of Gambling Advertising’ (Oireachtas Library and Research Service 2022) available [here](#) (last accessed 03 December 2022);
- Daniel Hurley, ‘Spotlight No. 1 of 2020. Gambling, Children and Video Games: Is it time to lock the loot box and throw away the key?’ (Oireachtas Library and Research Service 2020) available [here](#) (last accessed 03 December 2022);
- Finn Keyes, ‘Bill Digest: Gaming and Lotteries (Amendment) Bill 2019, No. 28 of 2019’ (Oireachtas Library and Research Service 2019) available [here](#) (last accessed 19 November 2022);
- ‘Bingo Protests: Key Issues’ (Oireachtas Library and Research Service blog post, 3 December 2019) available [here](#) (last accessed 03 December 2022); and
- Matthew Day, ‘Bill Digest: National Lottery Bill 2012’ (Oireachtas Library and Research Service 2013) available [here](#) (last accessed 03 December 2022).

Introduction to the Commercial Gambling Industry in Ireland

Traditionally, Ireland's commercial gambling industry was predominantly land-based; however, in recent years, there has been a significant increase in on-line gambling.¹² The commercial gambling sector has diversified rapidly and now encompasses a wide range of activities, including gambling:

- on horse races and greyhound races at the track;
- on a variety of sports in bookmakers' premises and via online platforms;
- on gaming machines at arcades and other gaming premises;
- on e-games offered online by operators licenced overseas;
- on the National Lottery's draws, games and scratch cards, both online and in-store;
- on privately operated lotteries and bingo games; and
- at casinos constituted as private members clubs.

There are multiple stakeholders involved in, and impacted, by Ireland's gambling industry, including:

- consumers of gambling services and their families;
- oversight and regulatory bodies, including government departments and agencies;
- Horse Racing Ireland and Greyhound Racing Ireland (the semi-state governing bodies for the respective horse racing and greyhound racing industries);
- the National Lottery;
- retail bookmakers, on-track bookmakers, and remote bookmakers, which offer gambling services by electronic means, including via the internet, telephone and telegraphy;
- remote betting intermediaries, which enable persons to make bets by electronic means;
- e-game service providers, which are licenced overseas;
- operators of gaming halls and arcades;
- representative bodies for the gambling industry;
- individuals employed in jobs created directly and indirectly by the gambling industry; and
- public and private bodies, which provide support to individuals negatively affected by gambling and engage in awareness raising activities regarding gambling.

The economic impact of gambling in Ireland

Commercial gambling is a major and multifaceted industry across the EU territory generating billions of Euros in revenue annually for both governments and commercial actors.¹³ Ireland is no outlier in this regard with commercial gambling activities exerting a significant impact on the economy annually.¹⁴ A 2019 Inter-Departmental Working Group Report to Government on the Future Licensing and Regulation of Gambling (the "2019 IDWG Report") suggested that the annual

¹² IDWG, 'Report to Government' (March 2019) p. 11, para. 2.3, available [here](#) (last accessed 18 November 2022).

¹³ See generally: C Jensen, 'Money over misery: restrictive gambling legislation in an era of liberalization' (2016) 24(1) *Journal of European Public Policy* 1-16.

¹⁴ IDWG, 'Report to Government' (March 2019) p. 10, para. 1.2, available [here](#) (last accessed 18 November 2022).

value of the Irish gambling market could amount to €6-€8 million.¹⁵ For the purposes of this discussion, Ireland's gambling industry is divided into the following subsectors: betting, gaming, privately operated lotteries, and the National Lottery.

The Betting Subsector

The betting subsector encompasses betting on track, in bookmaking offices and online. The 2019 IDWG Report estimated that over 8,000 people were directly employed in this subsector.¹⁶ Since 2015, remote bookmakers and remote betting intermediaries have been brought within Ireland's licencing regime and must pay excise duty on turnover.¹⁷ This has contributed to a significant increase in net receipts, which has been redirected toward funding state-sponsored subsidies for Horse Racing Ireland and Greyhound Racing Ireland.¹⁸

As of 31 October 2022, there were 233 licenced bookmakers and 818 licenced bookmaking offices in the State,¹⁹ and approximately 74 licences had been granted to remote bookmakers/remote betting intermediaries.²⁰ The Irish Bookmaker's Association (IBA), the largest representative body for the Irish bookmaking industry, asserts that the number of bookmaking offices in Ireland declined from 1385 in 2008 to 791 in 2021.²¹ The reasons for the decline have been attributed to: the impact of the recession post-2008, the increase in online betting, the increase in betting duties and, in particular, larger firms buying up smaller firms and/or their shops.²² Indeed, three firms now reportedly account for the vast majority of licensed betting shops.²³

Licences for bookmakers resident in the State, remote bookmakers and remote betting intermediaries are issued for a two-year period and are subject to excise duty.²⁴ Bookmakers must also pay a fee to register their bookmaking premises with a renewal fee also accruing biannually.²⁵ Table 2 below provides an indication of the annual revenues raised through these licencing fees.

¹⁵ Ibid.

¹⁶ Ibid., at pp 10-11, para. 1.3.

¹⁷ In accordance with the *Betting (Amendment) Act 2015*.

¹⁸ A. Kerr, J. O'Brennan and L. Vazquez Mendoza, 'Gambling trends, harms and responses: Ireland in an international context' (Maynooth University, 2021) at p. 56, [available here](#) (last accessed 20 November 2022).

¹⁹ Revenue Commissioners, 'Register of Licensed Bookmakers as of 31 October 2022', [available here](#) (last accessed 23 November 2022); and Revenue Commissioners, 'Register of Licensed Bookmaking Offices as of 31 October 2022', [available here](#) (last accessed 23 November 2022).

²⁰ Revenue Commissioners, 'Register of licensed remote bookmaking operations as of 29 October 2022', [available here](#) (last accessed 23 November 2022).

²¹ Irish Bookmakers Association, 'About Us', [available here](#) (last accessed 23 November 2022).

²² A. Kerr, J. O'Brennan and L. Vazquez Mendoza, 'Gambling trends, harms and responses: Ireland in an international context' (Maynooth University, 2021) at p. 56, [available here](#) (last accessed 20 November 2022).

²³ Department of Finance Tax Division, 'General Excise Paper: Tax Strategy Group – 22/08' (July 2022) at p. 38, [available here](#) (last accessed 23 November 2022).

²⁴ Revenue Commissioners, 'Excise Licences' (published 18 September 2022) available at: [Excise licences \(revenue.ie\)](#) (last accessed 20 November 2022).

²⁵ Ibid.

Table 2: revenue generated by licence fees and office registration fees for 2018- 2021

Year	Bookmakers Licences € (no. issued)	Bookmaking Premises Licences € (no. issued)	Remote Betting Intermediary's Licence € (no. issued)	Remote Bookmaker's Licence € (no. issued)
2018	62,250 (139)	330,600 (443)	35,000 (4)	155,000 (16)
2019	100,750 (205)	368,600 (485)	110,000 (6)	1,160,000 (70)
2020	39,500 (79)	291,840 (384)	30,000 (3)	110,000 (11)
2021	63,000 (107)	405,840 (509)	149,992 (8)	1,070,000 (58)

* Table 2 was prepared using the Revenue Commissioner's Breakdown of Betting Duty Receipts from 2011 to 2021.²⁶

In accordance with section 67 of the *Finance Act 2002, as amended*, betting duty is payable on bets entered into by bookmakers with persons in the State. It was originally imposed at a rate of 10% in 1996; however, the rate was subsequently reduced to 1% in 2006 before being increased again to 2% in Budget 2019 for bets placed with both Irish-resident and remote bookmakers.²⁷ Remote betting intermediaries are subject to betting intermediary duty at a rate of 25% of the commission they charge persons in the State for using their facilities to make bets,²⁸ representing an increase on the previous rate of 15% since 1 January 2019. Bets placed on-course at horseracing and greyhound racing tracks and via totalisator (tote) machines are exempt from betting duty.²⁹ A tax credit of €50,000 was introduced in Budget 2020, which is applied on a single undertaking basis and is mainly of benefit to small, independent retail bookmakers.³⁰

Betting duty receipts increased steadily year-on-year from 2014 to 2019 before experiencing a slight dip in 2020 possibly due to the public health restrictions imposed on sporting events in response to the Covid-19 pandemic. They rebounded quite strongly in 2021 and are forecast to amount to approximately €102 million for 2022.³¹ The retail betting market contributed approximately 27% to total betting duty receipts in 2021 as compared with approximately 55% in 2019.³² The Department of Finance's Tax Strategy Group observed that this most likely reflects a general market shift to online betting, which was amplified by the pandemic.³³

²⁶ Revenue Commissioners, 'Breakdown of Betting Duty Receipts 2011-2021', available [here](#) (last accessed 23 November 2022).

²⁷ Department of Finance Tax Division, 'General Excise Paper: Tax Strategy Group – 22/08' (July 2022) at p. 37, available [here](#) (last accessed 23 November 2022).

²⁸ Revenue Commissioners, 'Betting Duty' (published 13 October 2021) available at: [Betting Duty \(revenue.ie\)](#) (last accessed 20 November 2022).

²⁹ *Ibid.*

³⁰ Department of Finance Tax Division, 'General Excise Paper: Tax Strategy Group – 22/08' (July 2022) at p. 37, available [here](#) (last accessed 23 November 2022).

³¹ *Ibid.*, at p. 38.

³² *Ibid.*

³³ *Ibid.*

Table 3: Breakdown of Betting Duty Receipts 2014 to mid-2022

Year	Retail Betting €	%	Online Betting €	%	Betting Intermediary €	%	Total €
2014	26,162,214						26,162,214
2015	27,744,245	89.31	3,003,066	9.67	316,452	1.02	31,063,763
2016	28,126,271	55.42	20,749,097	40.89	1,869,887	3.69	50,745,255
2017	28,956,966	55.5	21,421,353	41.0	1,836,847	3.5	52,215,166
2018	28,867,366	55.2	21,687,046	41.4	1,781,526	3.4	52,335,938
2019	51,889,431	54.6	40,622,117	42.8	2,501,108	2.6	95,012,656
2020	39,021,093	45.0	44,935,012	51.8	2,815,335	3.2	86,771,440
2021	24,379,972	27.35	60,550,261	67.94	4,196,553	4.71	89,126,786
2022 (Jan-May)**	22,960,000		26,590,000		2,000,000		51,600,000

* Table 3 was prepared using the Revenue Commissioner's Breakdown of Betting Duty Receipts from 2011 to 2021;³⁴ and the Department of Finance Tax Strategy Group General Excise Papers for September 2021³⁵ and July 2022.³⁶ Betting duty is payable four months in arrears.

** The figures for 2022 are provisional.

The gaming and private lotteries subsectors

According to the 2019 IDWG Report, "there are no figures published for revenues from on-line gaming, gaming in arcades and private members' clubs, bingo (including on-line) or for the thousands of local community lotteries/raffles in the State".³⁷ Private lottery tickets, bingo tickets and raffle tickets are currently exempt from VAT.³⁸ Furthermore, lottery permits are not currently subject to a fee;³⁹ however the Minister may elect to prescribe one in the future.⁴⁰

Ireland's gaming subsector extends to land-based gaming activities, including arcades and casinos operating as private members clubs, and e-gaming activities offered by service providers licenced

³⁴ Revenue Commissioners, 'Breakdown of Betting Duty Receipts 2011-2021', available [here](#) (last accessed 23 November 2022).

³⁵ Department of Finance Tax Division, 'General Excise Paper: Tax Strategy Group – 21/11' (September 2021) at p. 35, Table 2, available [here](#) (last accessed 23 November 2022).

³⁶ Department of Finance Tax Division, 'General Excise Paper: Tax Strategy Group – 22/08' (July 2022) at p. 37, Table 10, available [here](#) (last accessed 23 November 2022).

³⁷ IDWG, 'Report to Government' (March 2019) p. 10, para. 1.2, available [here](#) (last accessed 18 November 2022).

³⁸ Revenue Commissioners, 'VAT treatment of betting, remote betting services and lotteries', at p. 3, available [here](#) (last updated April 2022).

³⁹ Department of Justice, 'Applying for a Lottery Permit - Information Note'.

⁴⁰ Section 27B(2)(b), *Gaming and Lotteries Act, 1956, as amended*.

overseas. A 2017 Report by Olsberg SPI with Nordcity, estimated that the video games sector alone generated 1,890 full time equivalent jobs.⁴¹

Operators of gaming machines at venues such as arcades must hold a gaming machine licence in respect of each individual machine and a general gaming licence in respect of the premises in which the machines are located. Excise duty is payable upon both types of licence.⁴² The standard 23% rate of VAT applies to gaming services and to playing gaming machines. Gaming permits are available for certain forms of 'on-premises gaming' such as pool and snooker tournaments, darts competitions, card games and pub quizzes.⁴³ Gaming permits are currently not subject to a fee although the Minister for Justice could prescribe one in the future.⁴⁴

Ireland does not currently have a specific licensing regime for online gaming.⁴⁵ Nevertheless, operators which are licensed overseas in places such as the Isle of Man, Malta and Gibraltar provide e-gaming services to Irish consumers.⁴⁶ The Irish revenues generated by these online operators are subject to VAT at a rate of 23% on a point of consumption basis.⁴⁷ Commentators suggest that a modern licensing regime would encourage reputable online operators to operate out of Ireland, where they could benefit from Ireland's favourable corporate tax rate and English-speaking workforce.⁴⁸

Irish legislation doesn't explicitly provide for the licencing of casinos. Nevertheless, the *Gaming and Lotteries Act, 1956* was originally interpreted so as to permit casinos and card clubs that operate as private members' clubs.⁴⁹ Apart from the requirement to become a member, the operational modalities for these "private" casinos, including rules pertaining to opening hours and age restrictions, remained unregulated by statute.⁵⁰ In addition to generating concerns surrounding the protection of consumers and vulnerable persons, this gap in regulation prevented the State from maximising the revenue generating opportunities arising from these activities. Casinos operating as private members clubs must register for VAT at a rate of 23% and pay corporation

⁴¹ Olsberg SPI with Nordcity, 'Economic analysis of the audio-visual sector in Ireland' (2017) at p. 18, available [here](#) (last accessed 24 November 2022).

⁴² The rates as of 20 November 2022 were: €630 for a 12-month gaming licence, €175 for a 3-month gaming licence, €505 for a 12-month gaming machine licence, and €145 for a 3-month gaming machine licence. See: Revenue Commissioners, 'Gaming Licence/Gaming Machine Licence Application Form', available [here](#) (last accessed 20 November 2022).

⁴³ See: Department of Justice, 'Applying for Gaming Permit - Information Note', available [here](#) (last accessed 20 November 2022).

⁴⁴ *1956 Act, as amended, section 9A.*

⁴⁵ Rob Corbet and Caoimhe Stafford, 'Gaming in Ireland overview' (Arthur Cox, last updated 1 June 2021) available [here](#) (last accessed 20 November 2022).

⁴⁶ *Ibid.*

⁴⁷ In accordance with Directive 2006/112/EC on the common system of value added tax and its implementing regulations (282/2011/EU). See *ibid.*

⁴⁸ *Ibid.*

⁴⁹ IDWG, 'Report to Government' (March 2019) p. 12, para. 2.4, available to download [here](#) (last accessed 18 November 2022). Although they must adhere to anti-money laundering legislation.

⁵⁰ *Ibid.*, at p. 12, para. 2.4.

tax.⁵¹ However, they are not required to pay a licence fee or casino tax.⁵² Some casinos closed in anticipation of the *Gaming and Lotteries (Amendment) Act 2019* and some commentators infer that the legal status of casinos operating as private members clubs is unclear since the Act's entry into force.⁵³

The National Lottery subsector

The National Lottery was established by the State in 1987 to raise funds for good causes and was initially operated by An Post. According to the National Lottery website, almost €0.30 of every €1 spent on National Lottery games is redirected toward "Good Causes" in Irish communities with an estimated €6 billion provided to Good Causes since operations commenced in 1987.⁵⁴ The National Lottery was privatised in November 2014 when the licence to operate it was granted to Premier Lotteries Ireland DAC (PLI) for a 20-year period. PLI reportedly paid €405 million for the franchise and privatisation was viewed as a way to grow the National Lottery's digital presence.⁵⁵ Today, the National Lottery offers a wide variety of online gambling opportunities for consumers, including draw games (for example, the Lotto and Euro millions); and approximately 30 instant win games (for example, Festive Fortune).⁵⁶ It also operates the Telebingo TV show, which is broadcast live three times weekly on RTÉ One, and has an extensive network of terminals countrywide where consumers can purchase tickets for lottery draws and scratch cards. In 2018, Indecon Research Economists published an independent report on behalf of PLI outlining the socio-economic impact of the National Lottery. The Report determined that the estimated overall GDP impact of National Lottery spending in 2017 was €1,973 million whereas the estimated gross annual exchequer impact was €101.3 million (excluding any returns to the Exchequer from its role as a shareholder in the National Lottery).⁵⁷ National lottery tickets are currently exempt from VAT as is the commission payable to retailers on the sale of National Lottery tickets.⁵⁸ The Indecon Report indicated that these commissions amounted to €47 million in 2017.⁵⁹ It also estimated that the National Lottery directly supported 17,090 full-time equivalent jobs.⁶⁰

⁵¹ International Comparative Legal Guides (ICLG), *Gambling 2022* (8th edn, ICLG 2022) at p. 112, available to access [here](#) (last accessed 18 November 2022).

⁵² IDWG, 'Report to Government' (March 2019) p. 12, para. 2.4, available to download [here](#) (last accessed 18 November 2022).

⁵³ Rob Corbet and Caoimhe Stafford, 'Gaming in Ireland overview' (Arthur Cox, last updated 1 June 2021) available [here](#) (last accessed 20 November 2022). The 2019 Act repealed *section 9 of the Gaming and Lotteries Act 1956, as originally enacted*, which provided that "[t]his section shall not prohibit the licensee or his private friends from playing cards for stakes in a part of the premises other than that in which the sale of intoxicating liquor generally takes place if the friends are being entertained by him at his own expense".

⁵⁴ See the National Lottery website, accessible [here](#) (last accessed 21 November 2022).

⁵⁵ Eoin Burke Kennedy, 'Privatised national lottery gambles on long-term growth' (The Irish Times 28 February 2014) available [here](#) (last accessed 20 November 2022).

⁵⁶ National Lottery website; accessible [here](#) (last accessed 20 November 2022).

⁵⁷ Indecon Research Economists, 'Socio-Economic Impact of the National Lottery An Independent Assessment' (2018) at p. 64, available [here](#) (last accessed 21 November 2022).

⁵⁸ Revenue Commissioners, 'VAT treatment of betting, remote betting services and lotteries', at p. 3, available [here](#) (last updated April 2022).

⁵⁹ Indecon Research Economists, 'Socio-Economic Impact of the National Lottery An Independent Assessment' (2018) at Executive Summary, p. xv, available [here](#) (last accessed 21 November 2022).

⁶⁰ The estimate increased to 21,728 jobs when indirect and induced multiplier impacts were included. See: *ibid.*, at p. x.

The existing legislative and regulatory framework

Gambling activities are currently regulated under several different pieces of legislation, including:

- the *Totalisator Act, 1929 as amended*;
- the *Betting Acts 1931-2015*;
- the *National Lottery Act 2013*; and
- the *Gaming and Lotteries Acts 1956-2019*.⁶¹

The regulation of betting activities

The *Totalisator Act, 1929, as amended*, provides for the licencing and regulation of tote (*pari-mutuel*)⁶² betting.⁶³ The Act requires that operators of totalisators (tote machines) acquire a licence from the Minister of Finance.⁶⁴ Totalisator licences have been issued to Tote Ireland Limited (a subsidiary of Horse Racing Ireland) and Greyhound Racing Ireland which operate totalisators at horse and greyhound racing tracks respectively.

The *Betting Acts 1931-2015* provide for the regulation and licensing of betting activities. They provide for three types of betting licence, which are issued by the Revenue Commissioners:

- a bookmaker's licence;
- a remote bookmaker's licence; and
- a remote betting intermediary's licence.

To obtain a licence, applicants (or their relevant officers where the applicant is a company) must first obtain a tax clearance certificate,⁶⁵ as well as a certificate of personal fitness:

- from a Superintendent of An Garda Síochána (AGS) (in respect of an application for a bookmaker's licence where the applicant/relevant officer is resident in the State),⁶⁶ or
- from the Minister for Justice and Equality in respect of an application for a remote bookmaker's licence or a remote betting intermediary's licence where the applicant/relevant officer ordinarily resides outside the State.⁶⁷

If bookmaking is being performed from a physical premises in the State, a certificate of suitability of premises must also be obtained from the superintendent.⁶⁸ The requirements for certificates of

⁶¹ Other relevant legislation includes the *Finance Act 1975 (as amended)*; and the *Finance Act 1992 (as amended)*.

⁶² In *pari-mutuel* betting, "[t]he payoff to winners is made from the pool of all bets on the various entries in a race, after deduction of an operator's commission and tax." See *Britannica* entry for *pari-mutuel* gambling system, available [here](#) (last accessed 18 November 2022).

⁶³ *Totaliser Act, 1929, Long Title*.

⁶⁴ *Totaliser Act, 1929, section 3*.

⁶⁵ *Betting Act, 1931, sections 7(4)(b); 7B(4)(b); and 7C(4)(b) (as amended/inserted by sections 13-14 of the Betting (Amendment) Act 2015)*.

⁶⁶ *Betting Act, 1931, section 4 as amended by section 7 of the Betting (Amendment) Act 2015 and section 10*.

⁶⁷ *Betting Act, 1931, sections 5 and 5A as amended/inserted by sections 8-9 of the Betting (Amendment) Act 2015*.

⁶⁸ *Betting Act, 1931, section 10*.

fitness/suitability of premises are aimed at protecting consumers and vulnerable persons. For example, applicants are required to provide information pertaining to their financial situation,⁶⁹ and certificates of suitability of premises may be refused where the proposed premises are close to places where large numbers of people and vulnerable persons congregate such as schools.⁷⁰

The *Betting Act, 1931, as amended*, sets out the modalities for the expiration, renewal and revocation of betting licences.⁷¹ It also provides for a number of offences, including where a person provides bookmaking, remote booking or betting intermediary services without a licence.⁷² Section 32D provides for corporate liability and stipulates that where an offence under the Act is committed by a company with the consent or connivance of a company officer, or by a person purporting to act as a company officer, that person shall also be guilty of an offence.⁷³

The regulation of the National Lottery

The National Lottery is exempted from the *Gaming and Lotteries Acts 1956-2019*,⁷⁴ and instead is subject to the provisions of the *National Lottery Act 2013* (the “2013 Act”). The 2013 Act provides for the establishment of a National Lottery Regulator (the “Regulator”) whose principal function is to procure the holding of the National Lottery by an operator under licence.⁷⁵ Sections 29(1) and (2) of the 2013 Act stipulate that the operator must be a company and that their sole object is to hold the National Lottery in accordance with the terms of the licence. Pursuant to section 26, the Regulator granted a twenty year licence to PLI in November 2014 following a tendering process.

The 2013 Act incorporates safeguards aimed at protecting consumers and vulnerable persons. The Regulator must exercise their powers with a view to ensuring that the National Lottery is run with all due propriety, and that the interests of participants are protected.⁷⁶ The operator of the National Lottery is subject to the Regulator’s oversight, and the Regulator is entitled to include such terms and conditions in the operator’s licence as he or she considers necessary or expedient.⁷⁷ Indeed, the licence granted to PLI is subject to several conditions concerning the advertising and promotion of the National Lottery, responsible gaming, the protection of players, and the maintenance of the National Lottery fund.⁷⁸ The Regulator is also afforded far reaching enforcement powers under Part 6, including the powers to:

- investigate an apparent breach of the 2013 Act or of the operator’s licence;
- issue a direction to the operator to carry out/or cease carrying out certain actions, or apply to the High Court for an injunction;

⁶⁹ *Betting Act, 1931*, section 5(4) as amended/inserted by section 8 of the *Betting (Amendment) Act 2015*.

⁷⁰ *Betting Act, 1931*, section 11.

⁷¹ *Betting Act, 1931*, sections 14 and 16 as amended by sections 22-23 of the *Betting (Amendment) Act 2015*.

⁷² *Betting Act, 1931*, section 2 as amended by section 4 of the *Betting (Amendment) Act 2015*.

⁷³ *Betting Act, 1931*, section 32(D) as inserted by section 30 of the *Betting (Amendment) Act 2015*.

⁷⁴ *National Lottery Act 2013*, section 50.

⁷⁵ *National Lottery Act 2013*, section 9.

⁷⁶ *National Lottery Act 2013*, section 9(2).

⁷⁷ *National Lottery Act 2013*, section 26(8).

⁷⁸ ICLG, *Gambling 2022* (8th edn, ICLG 2022) at p. 111, available to access here (last accessed 18 November 2022).

- apply to the High Court for a determination that there has been a breach of the *2013 Act*, a breach of the operator's licence, or a failure to comply with an investigation; and
- revoke the operator's licence subject to certain conditions being satisfied.

The regulation of gaming and private lotteries

The *Gaming and Lotteries Acts 1956-2019* regulate the operation and licencing of gaming and private lotteries. The *Gaming and Lotteries Act, 1956* was originally designed to regulate gaming and lotteries conducted in physical premises. Further to a recommendation included in the 2019 IDWG Report, the *Gaming and Lotteries (Amendment) Act 2019* (the "2019 Act") was introduced as "an interim reform measure".⁷⁹ It updated the *Gaming and Lotteries Act, 1956* which had been described as a "relic of social history... utterly unsuited to effectively regulate gaming in a modern, wealthy European state".⁸⁰ This sector of Ireland's gambling legislation is in need of significant reform particularly given that its application to online gaming remains unclear.⁸¹

Section 2 of the *Gaming and Lotteries Act 1956, as amended* (the "*1956 Act, as amended*"), defines gaming as "playing a game (whether of skill or chance or partly of skill and partly of chance) for stakes hazarded by the players". On-premises gaming requires either a licence or a permit, depending on the maximum stakes and prizes involved.

Part III of the *1956 Act, as amended*, concerns the licensing of gaming at amusement halls and funfairs. Under section 12, the licencing of these gaming venues in a particular locality is dependent upon the receipt of authorisation from the relevant local authority. When the 1956 Act was drafted, it was recognised that gaming could have a negative impact on local communities and accordingly, their views should be sought when determining whether gaming should be permitted in their respective localities.⁸² Nevertheless, the role of local authorities has attracted opposition. A 2008 Report by the Casino Committee asserted that there were overwhelming arguments against local authorities retaining their powers under Part III, which was deemed "arbitrary in nature".⁸³

Gaming licences are issued by the Revenue Commissioners subject to the receipt of an application form, the excise duty payable, a tax clearance certificate and a certificate from the District Court authorising the issuance of the licence.⁸⁴ The maximum stake per player per game cannot be more than €5 whereas the maximum prize that each player can win per game cannot be

⁷⁹ Merrion Square Press Release, 'Minister Stanton announces Government approval for establishment of gambling regulatory authority' (20 March 2019) available [here](#) (last accessed 18 November 2022).

⁸⁰ Finn Keyes, 'Bill Digest: Gaming and Lotteries (Amendment) Bill 2019, No. 28 of 2019' (Oireachtas Library and Research Service 2019) at p. 6, available [here](#) (last accessed 19 November 2022) citing the Report of the Casino Committee, 'Regulating Gaming in Ireland' (2008) Preface. The Casino Committee was established in 2006 pursuant to a recommendation of the Minister for Justice, Equality and Law Reform.

⁸¹ ICLG, *Gambling 2022* (8th edn, ICLG 2022) at p. 113, available to access [here](#) (last accessed 18 November 2022).

⁸² Finn Keyes, 'Bill Digest: Gaming and Lotteries (Amendment) Bill 2019, No. 28 of 2019' (Oireachtas Library and Research Service 2019) at p. 7, available [here](#) (last accessed 19 November 2022).

⁸³ *Ibid.*, citing the Report of the Casino Committee, 'Regulating Gaming in Ireland' (2008) at pp 71-72.

⁸⁴ *1956 Act, as amended, section 19*

more than €500.⁸⁵ As discussed, a gaming machine licence is also required for each individual machine on the premises.⁸⁶ Both types of licence are issued for either 3 or 12 month periods.⁸⁷

Gaming permits are available for certain forms of 'on-premises gaming' such as pool and snooker tournaments, darts competitions, card games and pub quizzes.⁸⁸ Section 9A(11) outlines conditions that attach to gaming permits, including a condition that the maximum stake per player per game is €10 and the maximum prize that a player can win in a game is €3,000.⁸⁹ In accordance with section 9A(7), gaming permits last for 12 months.

Part IV of the *1956 Act, as amended*, concerns lotteries. Lotteries are defined under section 2 as "all competitions for money or money's worth involving guesses or estimates of future events or of past events the results of which are not yet ascertained or not yet generally known". Lotteries may be conducted under either a permit or a licence depending on the size of the prize.

In accordance with section 27B(10), the maximum prize for a lottery conducted pursuant to a lottery permit cannot exceed €5,000 or, where more than one lottery is held in any week, the total value cannot exceed €5,000. Applications for lottery permits must be submitted to the superintendent of AGS for the district in which the applicant ordinarily resides together with the prescribed fee (to date, no fee has been prescribed).

In accordance with section 28, a person who wishes to promote periodical lotteries should apply to the District Court, together with the prescribed fee, for a lottery licence.

Section 28(10) stipulates that the total value of the prizes may not exceed €30,000 where more than one lottery is held in any week; or €360,000 where one lottery is held in any year.

Certain lotteries are exempted from the requirement to obtain a permit or licence, including:

- lotteries conducted for a charitable or philanthropic purpose subject to conditions, including a requirement that the total value of the prizes be less than €1,000;⁹⁰ and
- lotteries held in conjunction with the selling or marketing of certain products subject to conditions, including a requirement that the total value of the prizes be less than €2,500.⁹¹

The *Gaming and Lotteries Acts* include safeguards aimed at protecting consumers and vulnerable persons. The *2019 Act* introduced a standard minimum age of 18 years for participation in gaming and lottery activities. When deciding whether to authorise a gaming or lottery permit or licence, the relevant authorising body must have regard to the applicant's character, the suitability of the proposed premises, where relevant, and the number of licences/permits already in force for the locality in question.⁹² When deciding whether to grant a gaming permit, a superintendent must also consider whether the gaming has a charitable or philanthropic purpose.⁹³ Section 9A(6)(a) of the

⁸⁵ *1956 Act, as amended*, section 14(1).

⁸⁶ Gaming machine licences are required under the *Finance Act, 1973, as amended*, section 43(4)(b).

⁸⁷ ICLG, *Gambling 2022* (8th edn, ICLG 2022) at p. 112, available to access [here](#) (last accessed 18 November 2022).

⁸⁸ Department of Justice, 'Applying for Gaming Permit - Information Note'.

⁸⁹ *1956 Act, as amended*, section 9A.

⁹⁰ *1956 Act, as amended*, section 26A.

⁹¹ *1956 Act, as amended*, section 27A.

⁹² *1956 Act, as amended*, section 9A(5); section 17, section 27B(5), and section 28(3).

⁹³ *1956 Act, as amended* section 9A(5); and

1956 Act, as amended, prohibits the issuance of a gaming permit where “by reason of the nature of the game, the chances of all the players, including the banker, are not equal”. Furthermore, when deciding whether to authorise a gaming licence, the District Court must consider the kind of gaming proposed and the class of person likely to resort to it.⁹⁴ It can also attach conditions to the licence concerning gaming hours and the kinds of gaming allowed.⁹⁵ [Section 27B\(10\)\(d\)](#) prohibits a lottery permit holder from retaining more than 5% of the proceeds where the lottery is held for the benefit of a charity. [Section 28\(10\)](#) outlines conditions that attach to a lottery licence, including a requirement that the licence holder derive no personal profit from the lottery; a requirement that no more than 25% of the total proceeds be retained by the licence holder and utilised for expenses, including commission; and a requirement that at least 25% of the total proceeds be allocated to a charitable or philanthropic purpose within one month of the lottery taking place.

The *1956 Act, as amended*, provides for several offences, including offences related to:

- the promotion of gaming or lotteries without a permit or licence, or contrary to their terms;
- the acceptance of a stake from a person under the age of 18 years;
- the making of false statements on applications for licences or permits; and
- the obstruction or impeding of a Garda in the exercise of their powers under the Act.⁹⁶

Part V of the *1956 Act, as amended*, affords AGS enforcement powers, including the powers to:

- seize gaming instruments and/or gaming machines;
- access places/events where gaming or lotteries are or are believed to be carried on;
- enter and inspect premises pursuant to a District Court search warrant;
- arrest persons conducting gaming in a manner believed to be contrary to the Act; and
- apply to the District Court for an order that a licence or permit be revoked or suspended where the holder has been convicted of an offence under the Act.

The enforceability of gambling debts

Section 36 of the *1956 Act, as amended*, provides that “every contract by way of gaming or wagering is void”. The High Court has confirmed that gambling debts are not currently enforceable in Ireland.⁹⁷ However, section 6 of the *Betting Act, 1931 as amended* by section 12 of the *Betting (Amendment) Act 2015*, provides that unreasonable refusal to pay sums due to persons who won bets can constitute a legitimate basis for revoking or refusing to issue a Certificate of Personal Fitness. Accordingly, this provision could help to deter any potential non-payment of debts by bookmakers as they could lose their bookmaking licence as a result.

⁹⁴ *1956 Act, as amended*, section 17.

⁹⁵ *1956 Act, as amended*, section 15(4).

⁹⁶ *1956 Act, as amended*, sections 4, 9A, 14, 26, 27B, 28, 30 and 41.

⁹⁷ *Sporting Index Limited v John O’Shea* ([2015] IEHC 407)

The regulation of gambling advertising, sponsorship and promotion⁹⁸

Currently, there are limited legislative provisions that specifically address sponsorship, advertising and promotion. Sections 4 and 26 of the *1956 Act, as amended*, prohibit the promotion of gaming or lotteries without a gaming or lottery permit or licence, and provide that a contravention of either of these provisions shall amount to an offence. Section 20 of the *Betting Act, 1931, as amended*, imposes restrictions on bookmakers related to advertising, including a prohibition on:

- setting up or maintaining any attraction outside the bookmaker's premises, which encourages individuals to congregate in or outside the bookmaker's premises;
- announcing or permitting another person to announce in the bookmaker's premises the terms or odds on/at which a bet may be placed in relation to any particular race, match or other contest, or in respect of any competitor in any such contest; or
- exhibiting, or allowing to be exhibited, inside or outside the bookmaker's premises: any list or statement of the terms or odds on/at which a bet may be placed in relation to any particular race, match or other contest, or in respect of any competitor in any such contest; or any other incitement or inducement to bet.

Section 20(6) of the *Betting Act, 1931, as amended* provides that contravening any of the above restrictions amounts to an offence. However, commentators have observed that "[t]he level of compliance with these provisions is relatively low".⁹⁹

Advertising of gambling products on television and radio is regulated by the Broadcasting Authority of Ireland (BAI), an independent statutory organisation which oversees broadcasting standards. The BAI has adopted the General Commercial Communications Code in accordance with sections 42(2) (h) and (j) of the *Broadcasting Act 2009*. It includes specific standards concerning commercial communications that pertain to gambling. For example, these communications:

- are not permitted for unlicensed remote bookmaking operations;
- are not permitted for lotteries save for the National Lottery and other lotteries granted licenses by the relevant competent authority (for example, charity bingo);
- may not contain material which could be deemed to constitute a direct encouragement to gamble, for example, information regarding special offers, free bets as prizes or discounts;
- must not contain material which is directed exclusively or principally at children or depicts children gambling or is broadcast in or around children's programmes;
- must not encourage socially irresponsible behaviour or behaviour which could lead to financial, social, psychological or emotional harm; and
- must not suggest that gambling could solve personal, professional or financial problems, or augment personal qualities or sexual attractiveness.¹⁰⁰

⁹⁸ For additional background information, see Eoin McLoughlin and Emily Heery, 'Note: Regulation of Gambling Advertising' (Oireachtas Library and Research Service 2022) available [here](#) (last accessed 03 December 2022).

⁹⁹ Rob Corbet and Caoimhe Stafford, 'Gaming in Ireland overview' (Arthur Cox, last updated 1 June 2021) available [here](#) (last accessed 20 November 2022).

¹⁰⁰ BAI, General Commercial Communications Code (1 June 2017) at p. 47.

The public can submit complaints to the BAI regarding alleged violations of the Code.¹⁰¹ If a complaint is upheld, the BAI may take action under its Compliance and Enforcement Policy (2014), including by requiring a broadcaster to broadcast a statement it prepared.¹⁰² The BAI's Code does "not apply to commercial communications carried on broadcasting services licensed in other jurisdictions."¹⁰³ This gap in regulation could give rise to cause for concern. On 14 March 2018, the Irish Examiner reported that six instances of advertisements for betting services on non-Irish licenced channels were found to have promoted gambling in contravention of BAI guidelines.¹⁰⁴

The Advertising Standards Authority for Ireland (ASAI) is an independent self-regulatory body, established by the advertising industry.¹⁰⁵ ASAI adopted a voluntary Code of Standards for Advertising and Marketing Communications, which includes specific standards for gambling communications (excluding marketing communications of the National Lottery).¹⁰⁶ These standards overlap to some extent with the BAI's General Commercial Communications Code. Members of the public can submit complaints to the ASAI regarding alleged breaches of the Code. Where a complaint is upheld, the relevant communication will have to be amended or withdrawn.¹⁰⁷ An ASAI member who fails to implement an ASAI decision may be subjected to penalties, including fines and/or a suspension of their membership.¹⁰⁸ ASAI has upheld gambling relating complaints, for example, a complaint against LottoGo in 2022;¹⁰⁹ and a complaint against Paddy Power in 2021.¹¹⁰ Complaints concerning marketing communications in foreign media are excluded from the scope of the ASAI Code. However, as a member of the European Advertising Standards Alliance (EASA), ASAI can submit a complaint concerning a marketing communication published or broadcast in another EASA member country to the national self-regulatory body in that country.¹¹¹

The Irish Bookmaker's Association (IBA) introduced an updated, voluntary 'Safer Gambling Code' in 2021. It includes a ban on the use of credit cards, both online and in shops.¹¹² It also provides for a pre-watershed (9pm) ban on gambling advertising on Irish channels, however subject to restrictions. For example, the ban excludes televised sporting events.¹¹³ Nevertheless, no pre-

¹⁰¹ *Ibid.*, at p. 4.

¹⁰² *Ibid.*, at p. 15

¹⁰³ *Ibid.*, emphasis added.

¹⁰⁴ The advertisements involved were ads for Ladbrokes and Paddy Power on Channel 4; ads for Lottoland.ie on Sky One, Sky News and Sky Living; and an ad for Poker Stars on E4, which referred to the prospect of winning \$1 million in "just five minutes. See: Sean McCarthaigh, 'broadcasting Authority concern at ads for toys and betting services' (*Irish Examiner*, 14 March 2018) available [here](#) (last accessed 19 November 2022).

¹⁰⁵ See 'About ASAI' available [here](#) (last accessed 18 November 2022).

¹⁰⁶ ASAI, 'Code of Standards for Advertising and Marketing Communications', Section 2 (last accessed 19 November 2022). Section 2.3(o) indicates that sponsorship is excluded from the scope of the Code; however, "marketing communications that refer to a sponsorship are covered".

¹⁰⁷ *Ibid.*, Appendix 1, Part 1, para. 20 and see also para. 23.

¹⁰⁸ *Ibid.*, Appendix 1, Part 1, para. 24.

¹⁰⁹ ASAI, 'Gambling' available [here](#) (last accessed 19 November 2022).

¹¹⁰ ASAI, 'Betting/Bookmakers' available [here](#) (last accessed 19 November 2022).

¹¹¹ ASAI, 'Code of Standards for Advertising and Marketing Communications', Appendix 1, Part 1, para. 22 (last accessed 19 November 2022).

¹¹² IBA, 'Safer Gambling Code' webpage (29 August 2021) available [here](#) (last accessed 18 November 2022).

¹¹³ IBA, 'Safer Gambling Code' (September 2021) para. 6.9, at p. 7, available [here](#) (last accessed 18 November 2022).

watershed betting advertising is allowed on TV during the period from 5 minutes before a live event begins until five minutes after it concludes (the “whistle-to-whistle ban”).¹¹⁴ This pre-watershed whistle-to-whistle ban includes breaks in play, for example, the half time period.¹¹⁵ However, horse racing and greyhound racing are excluded from the whistle-to-whistle ban, supposedly due to their “inherent links to betting”.¹¹⁶ All IBA members have reportedly agreed to the Code, including Boylesports, Flutter Entertainment, Entain and independent operators.¹¹⁷

The prevalence of gambling in Ireland

The National Drug and Alcohol Survey (NDAS) measures the prevalence of gambling and problem gambling across the Irish population. Gambling questions were included in the NDAS for the first time in 2014-2015 and again in 2019-2020.¹¹⁸ The 2014-2015 survey collected information from 7,005 respondents from August 2014 to August 2015,¹¹⁹ whereas the 2019-2020 survey collected information from 5,762 people respondents from February 2019 to March 2020.¹²⁰ Respondents were asked whether they had engaged in the following gambling activities over the past year:

“buying a lottery ticket or scratch card, playing lottery games online, gambling in a bookmaker’s shop (licensed premises where betting is legally permitted), gambling online or by telephone, placing a bet at a horse or dog race meeting, playing games at a casino, playing a gaming/slot machine, playing card games for money with friends/family, and playing bingo”.¹²¹

49% of respondents to the 2019-2020 survey reported participating in some form of gambling during the previous year as compared with 64.5% in the 2014-2015 survey.¹²² The decrease in participation was recorded across each gambling activity, with the sole exception of playing lottery games online.¹²³ 31% of respondents reported gambling on at least a monthly basis as compared with 41.4% of respondents to the 2014-2015 survey.¹²⁴ The reasons for the decline during the past year are unclear.¹²⁵ Decreases (albeit smaller) were also recorded in gambling prevalence in England, Wales and Scotland for the same period with the decrease in England being attributed to

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Ibid., at para. 6.10, at p. 7.

¹¹⁷ IBA, ‘Safer Gambling Code’ webpage (29 August 2021) available [here](#) (last accessed 18 November 2022).

¹¹⁸ The NDAS is commissioned by the National Advisory Committee on Drugs and Alcohol (NACDA) and collects information from a nationally representative sample of respondents aged 15 years and over living in Ireland at the time of the survey.

¹¹⁹ ‘Prevalence of Drug Use and Gambling in Ireland and Drug Use in Northern Ireland 2014/15 - Drug Prevalence Survey: Gambling Results’ (Department of Health of Northern Ireland 2016) at p. 4, available [here](#) (last accessed 21 November 2022).

¹²⁰ D. Mangan et. al., ‘Gambling in the Republic of Ireland Results from the 2019–20 National Drug and Alcohol Survey’ (Health Research Board 2022) at pp 7-8, available [here](#) (last accessed 21 November 2022).

¹²¹ Ibid., at p. 9.

¹²² Ibid., at pp 13 and 18.

¹²³ Ibid., at p. 18.

¹²⁴ Ibid., at pp 13 and 21.

¹²⁵ Ibid.

declining participation in the National Lottery.¹²⁶ In this regard, it is notable that the most significant decrease recorded in the 2019-2020 NDAS related to the number of respondents buying lottery tickets and scratch cards in person (from 56.7% in 2014-2015 to 42.4% in 2019-2020).¹²⁷

The top three most frequently reported gambling activities were the same for both the 2019-2020 and 2014-2015 surveys, although the percentages differed. Interestingly, these activities were all ‘in person’ activities. Gambling online or by telephone was the fourth most popular gambling activity in the 2019-2020 NDAS whilst it was the joint fifth most popular activity recorded on the 2014-2015 NDAS.¹²⁸ Nevertheless, the percentage of respondents who reported gambling online or by telephone was larger in the 2014-2015 NDAS (4.3% versus 3.9% in the 2019-2020 NDAS).

Table 4: Most popular gambling activities recorded in 2014/2015 and 2019/2020 NDAS

Rank and Activity	2014/2015 NDAS	2019/2020 NDAS
1. Buying a lottery ticket or scratch card in person	56.7%	42.4%
2. Gambling in a bookmaker’s shop	15.3%	9%
3. Placing a bet at a horse or dog racing meeting	12.7%	7.8%

* Table 4 is derived from information in the 2014/2015 and 2019/2020 NDAS¹²⁹

When the results of the 2019-2020 NDAS were disaggregated by gender and age, they revealed that male participation exceeded female participation for every activity with the exceptions of buying a lottery ticket or scratch card in person and playing bingo.¹³⁰ Males aged 35–49 years were the group most likely to have gambled during the past year (60.4%).¹³¹ Females aged 15-24 years were the group least likely to have done so (28.1%). Gambling rates were “highly influenced” by lottery-only gambling.¹³² When lottery gambling was excluded, females aged 35–49 years (1%) were the group least likely to gamble,¹³³ and overall gambling activity was significantly more common among males than females (25.8% versus 14.7%).¹³⁴

¹²⁶ Ibid.

¹²⁷ Ibid., at p. 31.

¹²⁸ Ibid., at p. 14; and ‘Prevalence of Drug Use and Gambling in Ireland and Drug Use in Northern Ireland 2014/15 - Drug Prevalence Survey: Gambling Results’ (Department of Health of Northern Ireland 2016) at p. 6, available [here](#) (last accessed 21 November 2022).

¹²⁹ This table is derived from information in D. Mangan et. al., ‘Gambling in the Republic of Ireland Results from the 2019–20 National Drug and Alcohol Survey’ (Health Research Board 2022) at p. 14, available [here](#) (last accessed 21 November 2022); and ‘Prevalence of Drug Use and Gambling in Ireland and Drug Use in Northern Ireland 2014/15 - Drug Prevalence Survey: Gambling Results’ (Department of Health of Northern Ireland on behalf of NACDA 2016) at p. 6, available [here](#) (last accessed 21 November 2022).

¹³⁰ D. Mangan et. al., ‘Gambling in the Republic of Ireland Results from the 2019–20 National Drug and Alcohol Survey’ (Health Research Board 2022) at p. 14, available [here](#) (last accessed 21 November 2022).

¹³¹ Ibid.

¹³² Ibid., at p. 31.

¹³³ Ibid., at pp 13-15.

¹³⁴ Ibid., at pp 14-15.

The results were also disaggregated by socioeconomic characteristics, including area-level deprivation, employment status and educational attainment. The results revealed that respondents living in the most deprived quintile were the most likely to have gambled (55.3%).¹³⁵ Employed respondents were more likely to have gambled (54.1%) than unemployed respondents (49.5%), or respondents in the home duties/retired/other category (48.9%). Interestingly, only 24.5% of student respondents had gambled during the past year; however, respondents who had completed third-level education were more likely to have gambled (52.4%) than those who had not.¹³⁶

The prevalence of problem gambling in Ireland

The UK Gambling Commission defines problem gambling as “gambling to a degree that compromises, disrupts or damages family, personal or recreational pursuits”.¹³⁷ The prevalence of problem gambling can be measured using screening tools, most notably, the Problem Gambling Severity Index (PGSI). The PGSI employs a nine-item scale. Four of the items are early warning signs, which seek to identify difficulties in controlling gambling, namely: chasing losses, escalating gambling in order to maintain excitement, betting more money than one could afford to lose, and borrowing money for gambling.¹³⁸ The other five items concern harm features, namely: financial difficulties, feelings of guilt, health problems, criticism by others, and a self-perceived gambling problem.¹³⁹ The 2019-2020 NDAS used the PGSI to measure the prevalence of problem gambling in Ireland. It divided the respondents into four categories based on their answers.

Table 5: Classification of Respondents to NDAS using the PGSI

Category of Gambler	Description of Category	% of respondents
Non-problem gambler	gamblers who gamble with no negative consequences	96.5
Low-risk gambler	gamblers who experience a low level of problems with few or no identified negative consequences	2.3
Moderate-risk gambler	gamblers who experience a moderate level of problems leading to some negative consequences	0.9
Problem gambler	gamblers who experience negative consequences and a possible loss of control	0.3%

* Table 5 is derived from the results included in the 2019/2020 NDAS.¹⁴⁰

¹³⁵ Ibid., at p. 16.

¹³⁶ Ibid., at pp 16-17.

¹³⁷ UK Gambling Commission, ‘Problem Gambling vs Gambling Related Harms’, available [here](#) (last accessed 21 November 2022).

¹³⁸ D. Mangan et. al., ‘Gambling in the Republic of Ireland Results from the 2019–20 National Drug and Alcohol Survey’ (Health Research Board 2022) at p. 10, available [here](#) (last accessed 21 November 2022).

¹³⁹ Ibid.

¹⁴⁰ Ibid., at pp 10 and 24.

As Table 5 shows, 0.3% of respondents amounting to 12,000 people in the general population were classified as problem gamblers.¹⁴¹ When the results were limited to respondents who reported gambling during the past year (49% of all respondents), the percentages were significantly higher: 0.6% were problem gamblers, 1.8% were moderate-risk gamblers, and 4.7% were low-risk gamblers.¹⁴²

When the results were disaggregated by gender, it was revealed that 0.6% of male respondents were problem gamblers versus 0.0% of female respondents.¹⁴³ Significantly more male respondents were also at-risk of problem gambling (5.4% versus 1.2% of female respondents).¹⁴⁴ Problem gambling was most prevalent amongst respondents aged 25–34 years (0.7%).¹⁴⁵ These results suggest that gender and age play a role in susceptibility to problem gambling.

When the results were disaggregated by area level deprivation, they revealed that problem gambling was most prevalent amongst respondents living in the most deprived quintile (1.0%).¹⁴⁶ When the results were disaggregated by employment status, they revealed that problem gambling was most prevalent amongst unemployed respondents (1.8%); however, moderate-risk gambling was most prevalent amongst students (1.3%).¹⁴⁷ When the results were disaggregated by educational attainment, they demonstrated that respondents who had completed primary or lower second-level education only were most likely to be problem gamblers (0.7%).¹⁴⁸ The disaggregated results suggest that at-risk and problem gambling are “strongly associated with poorer socioeconomic status”.¹⁴⁹ A link between problem gambling and lower socioeconomic status, in particular unemployment, has also been identified in the international literature.¹⁵⁰ The NDAS 2019-2020 stated that this link should “be a factor informing planning decisions around the density of gambling outlets”.¹⁵¹

The prevalence of at-risk gambling and problem gambling was also analysed having regard to respondents’ smoking, alcohol consumption and recent (past 12 months) illegal drug use status.¹⁵² The results suggest that these factors are “strongly linked” to at-risk and problem gambling.¹⁵³ Gambling was far more prevalent amongst drinkers (53%-59%) than non-drinkers (34%), whilst respondents with an alcohol use disorder were far more likely to engage in problem gambling (1.5% as compared with 0.0% of non-drinkers).¹⁵⁴ Problem gambling was also more prevalent amongst smokers (1.2% as compared with 0.1% of non-smokers). Respondents who engaged in

¹⁴¹ This table is derived from the results included in *ibid.*, at pp 10 and 24.

¹⁴² *Ibid.*

¹⁴³ *Ibid.*, at p. 24.

¹⁴⁴ *Ibid.*, at p. 31.

¹⁴⁵ *Ibid.*, at p. 24.

¹⁴⁶ *Ibid.*, at p. 26.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*, at p. 27.

¹⁴⁹ *Ibid.*, at p. 31.

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*, at p. 32.

¹⁵² *Ibid.*, at p. 29.

¹⁵³ *Ibid.*, at p. 32.

¹⁵⁴ *Ibid.*, at p. 29.

illegal drug use were also more likely to be problem gamblers (2% versus 0.2% of respondents who didn't).¹⁵⁵

It is not possible to compare the above results against the prevalence rate for problem gambling reported in the 2014-2015 NDAS as the latter did not use the PGSI. Instead, it used an adapted version of the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV). The DSM-IV tool uses 10 criteria assessed on a 4-point scale.¹⁵⁶ Three or more positive responses out of 10 is the threshold used to identify problem gambling.¹⁵⁷ The DSM-IV screening tool was included in the 2019–2020 NDAS to measure problem gambling prevalence so as to allow for a comparison with the 2014-2015 NDAS results.¹⁵⁸ Using the DSM-IV tool, the prevalence of problem gambling amongst respondents to the 2019–2020 NDAS was 0.4%, as compared with 0.6% of respondents to the 2014–2015 NDAS.¹⁵⁹

Prevalence of problem gambling in Ireland when compared with other States

The 2019-2020 NDAS recorded a lower percentage of “last year” gambling prevalence in Ireland (49%) than that recorded in recent surveys conducted in England (2018, 54%), Wales (2018, 50.2%), Scotland (2017, 63%) and Northern Ireland (2016, 67.2%).¹⁶⁰ Using the PGSI, the surveys conducted in England, Scotland, and Wales recorded similar levels of moderate-risk gambling prevalence as Ireland whereas the prevalence of problem gambling was lower in Ireland.¹⁶¹ The prevalence of both at-risk and problem gambling was significantly higher in Northern Ireland than Ireland (also assessed using the PGSI).¹⁶² The results of the 2016 gambling survey in Northern Ireland also included an analysis of problem gambling prevalence across 12 states between 2007 and 2017 measured using either the PGSI or DSM-IV tools.¹⁶³ The results ranged from 0.3% (Sweden) to 3.3% (Hong Kong).¹⁶⁴

Gambling-related harms in Ireland

The UK Gambling Commission defines gambling-related harms as: “the adverse impacts from gambling on the health and wellbeing of individuals, families, communities and society. These harms impact on people’s resources, relationships and health.”¹⁶⁵ In 2021, Kerr, O’Brennan and

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.*, at p. 10.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*, at p. 27.

¹⁶⁰ *Ibid.*, at p. 28. “Last year” gambling prevalence refers to the percentage of respondents who reporting having gambled during the 12 months preceding the date on which they undertook the survey.

¹⁶¹ *Ibid.* (0.3% for Ireland versus 0.5% for England, 0.8% for Scotland and 0.7% for Wales).

¹⁶² *Ibid.*

¹⁶³ See: Stephen Dunne, Clíona Flynn and Jayne Sholdis, ‘2016 Northern Ireland Gambling Prevalence Survey’ (Department of Communities, May 2017) at p. 24., available [here](#) (last accessed 22 November 2022).

¹⁶⁴ *Ibid.* The 12 states surveyed were Sweden (0.3%), Australia (0.4%), France (0.5%), England (0.5%), Scotland (0.7%), New Zealand (0.7%), Iceland (0.8%), Wales (1.1%), Finland (1.1%), Northern Ireland (2.3%), South Africa (3.2%) and Hong Kong (3.3%).

¹⁶⁵ UK Gambling Commission, ‘Problem Gambling vs Gambling Related Harms’, available [here](#) (last accessed 21 November 2022).

Vazquez Mendoza published the results of primary research funded by Gambling Awareness Trust, an independent charity, which involved semi-structured interviews with a variety of stakeholders in Ireland's gambling sector. The results suggest that Ireland experiences similar gambling-related harms as have been identified in international research.¹⁶⁶

Regarding financial losses, an Irish Times article from July 2021 reported that Irish gamblers lost approximately €1.36 billion in 2020 amounting to approximately €300 per adult on average, making the Irish the fourth-highest gamblers in the EU.¹⁶⁷ The same article, relying on figures provided by industry analysts, H2 Gambling Capital, reported that on an international basis, Ireland ranks fourteenth for average highest gambling losses, slightly ahead of the UK, and behind Finland (€342 per adult), Malta (€334) and Sweden (€325).¹⁶⁸ By way of comparison, a article published by the Economist in February 2017, which also relied on figures provided by H2 Gambling Capital, indicated that Ireland ranked third worldwide in 2016 in terms of average gambling losses per adult resident (with total losses amounting to US\$2.2 billion for the year).¹⁶⁹

A public survey of online gambling behaviours conducted by the research group located in Dublin's St. John of Gods Hospital between December 2014 to June 2015 gives some insight into the social harms associated with online gambling.¹⁷⁰ The survey attracted 209 responses of which 208 were analysed (comprised of 30 female and 178 male respondents).¹⁷¹ Respondents reported experiencing financial and health-related harms, amongst others, associated with their gambling.¹⁷²

¹⁶⁶ A. Kerr, J. O'Brennan and L. Vazquez Mendoza, 'Gambling trends, harms and responses: Ireland in an international context' (Maynooth University, 2021) at p. 66, [available here](#) (last accessed 20 November 2022).

¹⁶⁷ Brian Hutton, 'Irish fourth-worst gamblers in EU as move online accelerates' (Irish Times, 21 July 2021) [available here](#) (last accessed 21 November 2022).

¹⁶⁸ *Ibid.*

¹⁶⁹ 'The world's biggest gamblers' (The Economist, 9 February 2017) [available here](#) (last accessed 21 November 2022).

¹⁷⁰ The survey was advertised online and via media outlets. D. Columb and C. O'Gara, 'A national survey of online gambling behaviours' (2017) 35 Irish Journal of Psychological Medicine 311-319, [available here](#) (last accessed 21 November 2022).

¹⁷¹ *Ibid.*, at pp 312-313.

¹⁷² *Ibid.*, at pp 315-316.

Table 6: Responses included in St. John of Gods Research Group Survey to questions concerning online gambling-related harms¹⁷³

Question (time period = previous 12 months)	Yes responses (number and %)		
	Male (178 respondents in total)	Female (30 respondents in total)	Total (208 respondents in total)
Has gambling caused any financial problems for you and your household?	134 (64.4)	21 (10.1)	155 (74.5)
Has gambling caused you any health problems including stress and anxiety?	120 (57.7)	20 (9.6)	140 (67.3)
Have people criticised your betting or told you that you had a gambling problem regardless of whether or not you thought it was true?	109 (52.4)	17 (8.2)	128 (61.5)
Have you felt guilty about the way you gamble or what happens when you gamble?	103 (49.5)	20 (9.6)	123 (59.1)
When you gambled, did you go back another day to try and win the money you lost?	94 (45.2)	17 (8.2)	111 (53.4)

The results suggest that mobile apps, such as the Bet365 app and the Paddy Power app, are the most popular device used to bet online.¹⁷⁴ These results align with the results of an exploratory, ethnographic study into gambling-related harms in Ireland conducted by Fulton in 2015, which indicate that smart mobile devices are “particularly convenient, providing an opportunity to engage in gambling in any setting”.¹⁷⁵ They also suggest that technology can be used to hide excessive gambling.¹⁷⁶ The respondents to the St. John of Gods’ online survey included ease of access, convenience and availability as reasons for gambling online alongside the prospect of winning money and enjoyment.¹⁷⁷ Interestingly, the most popular online gambling activities reported by respondents to this survey, including both regular and non-regular gamblers, involved betting on sporting events with a live component.¹⁷⁸ This suggests, in line with previous research, that the live action element enhances the enjoyment and excitement experienced when betting.¹⁷⁹

¹⁷³ This table is derived from information contained in *ibid.*

¹⁷⁴ *Ibid.*, at p. 313.

¹⁷⁵ C. Fulton, ‘Playing Social Roulette: The Impact of Gambling on Individuals and Society in Ireland Final Report’ (University College Dublin, June 2015) at p.46, [Available here](#) (last accessed 23 November 2022). Fulton’s study involved the collection of data via ten interviews with representatives of addiction service providers, 22 interviews with gamblers, 22 interviews with friends and family members of gamblers, and a focus group with seven representatives of the gambling industry.

¹⁷⁶ *Ibid.*, at p. 48.

¹⁷⁷ D. Columb and C. O’Gara, ‘A national survey of online gambling behaviours’ (2017) 35 *Irish Journal of Psychological Medicine* 311-319, at p. 313, available [here](#) (last accessed 21 November 2022)..

¹⁷⁸ *Ibid.*, at p. 317.

¹⁷⁹ *Ibid.*

The lockdowns imposed in Ireland in response to the Covid-19 pandemic accelerated the migration of gamblers to online platforms and deepened existing patterns of gambling harms.¹⁸⁰

Need for safeguards to protect vulnerable people from gambling-related harms

Fulton's (2015) research suggests that problem gamblers often start gambling as teenagers.¹⁸¹ The 2019 results of the European School Survey Project on Alcohol and Other Drugs (ESPAD) are somewhat concerning in this regard. Irish respondents to the survey (aged 15-16 years) reported higher rates, than their counterparts in 34 European states, during the past year of:

- gambling (24% versus 22% on average);
- slot machine use (37% versus 21% on average);
- sports/animal betting (61% versus 45% on average); and
- participation in lotteries (52% versus 49% on average).¹⁸²

During the PLS process, representatives of the IBA indicated that refusing to serve customers below 21 years of age is one of their key social responsibility pillars.¹⁸³ However, the ESPAD results suggest that existing safeguards are insufficient as minors are still finding a way to bet on sporting events. During PLS, some representatives of the gambling industry indicated that they had introduced more robust age verification processes for online gambling websites in Ireland.¹⁸⁴ It is noteworthy in this regard that Ireland fell below the European average in the ESPAD terms of online gambling (6% versus 7.9%).¹⁸⁵

Stakeholders voiced concerns during the PLS process regarding the impact of gambling advertising and sponsorship on children and problem gamblers, including advertisements disseminated on social media.¹⁸⁶ They discussed several additional preventative measures that could be included in the proposed legislation, including a ban on gambling with a credit card.¹⁸⁷ It was noted that background checks aimed at determining whether a customer is a problem gambler are currently not permitted under the Irish regulatory regime.¹⁸⁸ It was further noted that IBA members currently operate a self-exclusion scheme, whereby when an individual signs a self-

¹⁸⁰ A. Kerr, J. O'Brennan and L. Vazquez Mendoza, 'Gambling trends, harms and responses: Ireland in an international context' (Maynooth University, 2021) at pp 67-68, [available here](#) (last accessed 20 November 2022). See also Department of Finance Tax Division, 'General Excise Paper: Tax Strategy Group – 21/11' (September 2021) at p. 36, Table 2, [available here](#) (last accessed 23 November 2022).

¹⁸¹ C. Fulton, 'Playing Social Roulette: The Impact of Gambling on Individuals and Society in Ireland Final Report' (University College Dublin, June 2015) at p.48, [Available here](#) (last accessed 23 November 2022).

¹⁸² The ESPAD Group, '2019 Results from the European School Survey Project on Alcohol and Other Drugs' (Publications Office of the European Union, 2020) at pp 76-78, [available here](#) (last accessed 23 November 2022). For the survey, data was collected from 99,647 students aged between 15 and 16 years from 35 countries: Austria, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, the Faroes, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kosovo (1), Latvia, Lithuania, Malta, Monaco, Montenegro, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden and Ukraine.

¹⁸³ Joint Committee on Justice, 'Report on Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill' (May 2022) at p. 17, [available here](#) (last accessed 25 November 2022).

¹⁸⁴ *Ibid.*, at p. 18.

¹⁸⁵ *Ibid.* at p. 77.

¹⁸⁶ *Ibid.*, at pp 16-19.

¹⁸⁷ *Ibid.*, at pp19-24.

¹⁸⁸ *Ibid.*, at p. 22.

exclusion form and provides photo identification in a retail betting shop, they are automatically excluded from that shop.¹⁸⁹ Stakeholders discussed the possibility of online operators such as GAMSTOP also applying a self-exclusion scheme for Irish-based customers.¹⁹⁰

Some stakeholders, including the Institute of Public Health, called for in-game transactions such as loot boxes to be subject to regulatory scrutiny.¹⁹¹ A loot-box is “a collective term for randomised virtual items bought with real-world money and includes game products sold as virtual ‘treasure chests’ and packs of cards”.¹⁹² Concerns have been expressed regarding potential links between loot boxes and experiences of problem gambling, particularly amongst children.¹⁹³ During PLS, some stakeholders also called for an explicit ban on fixed odds betting terminals (“FOBTs”).¹⁹⁴

Treatment and awareness raising for problem gambling and at-risk gambling

The Health Service Executive (HSE) currently receives no specific funding from the Department of Health to provide support services for gambling addiction; however, its Drug and Alcohol Service can offer treatment to gamblers who present for drug and alcohol problems.¹⁹⁵ Counselling services are accessible for medical card holders via the HSE’s in Primary Care Service following a GP referral.¹⁹⁶ Addiction counsellors can refer problem gamblers to residential treatment centres, which are accessible free of charge, and to support groups such as Gambling Anonymous Ireland.¹⁹⁷ Community projects also offer services to gamblers where the gambling problem is associated with other addictions.¹⁹⁸ The number of people who presented to HSE services with gambling related problems was 208 in 2015, 195 in 2016 and 219 in 2017.¹⁹⁹ Having regard to the NDAS 2019-2020, these figures suggest that the majority of problem and at-risk gamblers in Ireland are either not presenting for any treatment or are accessing treatment from privately operated treatment centres or charities. Like public service providers, charities and private

¹⁸⁹ *Ibid.*, at p. 27.

¹⁹⁰ *Ibid.*

¹⁹¹ Institute of Public Health, ‘Submission to the Joint Oireachtas Committee on Justice General Scheme of the Gambling Regulation Bill 2021’ (2021) at pp 14 and 40-42, appended to *ibid.*

¹⁹² D. Leahy, ‘What are Loot-Boxes’ and why are they so difficult to regulate?’ (RTE Brainstorm, 24 November 2022) available [here](#) (last accessed 25 November 2022).

¹⁹³ *Ibid.*, and Institute of Public Health, ‘Submission to the Joint Oireachtas Committee on Justice General Scheme of the Gambling Regulation Bill 2021’ (2021) at pp 40-42, appended to PLS Report available [here](#) (last accessed 25 November 2022). See also: Daniel Hurley, ‘Spotlight No. 1 of 2020: Gambling, Children and Video Games: Is it time to lock the loot box and throw away the key?’ (Oireachtas Library and Research Service 2020) available [here](#) (last accessed 03 December 2022).

¹⁹⁴ PLS Report, at p. 26, available [here](#) (last accessed 16 November 2022).

¹⁹⁵ A. Kerr, J. O’Brennan and L. Vazquez Mendoza, ‘Gambling trends, harms and responses: Ireland in an international context’ (Maynooth University, 2021) at p. 70, [available here](#) (last accessed 20 November 2022); and Answer provided by HSE to Parliamentary Question 2784/21 (3 February 2021) available [here](#) (last accessed 25 November 2022).

¹⁹⁶ A. Kerr, J. O’Brennan and L. Vazquez Mendoza, ‘Gambling trends, harms and responses: Ireland in an international context’ (Maynooth University, 2021) at p. 70, [available here](#) (last accessed 20 November 2022).

¹⁹⁷ *Ibid.* at p 71.

¹⁹⁸ *Ibid.* at p 70.

¹⁹⁹ ‘Answer to Parliamentary Question 329 concerning Hospital Waiting Lists’ (29 July 2020) available [here](#) (last accessed 25 November 2022).

treatment centres also provide support based on a generalised addiction model.²⁰⁰ They offer treatment in residential and non-residential treatments, as well as counselling helplines and some early intervention services.²⁰¹

In their 2021 Report, Kerr, O'Brennan and Vazquez Mendoza identify a "serious failure on the part of the state and the industry (as the two key stakeholders who benefit financially from gambling) to respond adequately to individuals and communities who are suffering from gambling harms in Ireland".²⁰² They argue that a specialised model for treating gambling addiction is necessary.²⁰³ The Conclusions of the 2019-2020 NDAS also observe that the HSE does not provide specific gambling treatment services, and suggest that it would be beneficial to tailor treatments to the needs of different types of gamblers.²⁰⁴ Kerr, O'Brennan and Vazquez Mendoza indicate that regional discrepancies in the public health system can make it difficult for problem gamblers to access public services in their area.²⁰⁵ They assert that screening for gambling addiction is "virtually non-existent" making it difficult to stage early interventions.²⁰⁶ The Conclusions of the 2019-2020 NDAS also stress the importance of screening services for at-risk gamblers.²⁰⁷ Notably, Fulton's interviews with addiction service providers in Ireland suggest that by the time a problem gambler and/or their family/friends seek help, the gambler has typically experienced a significant deterioration in their finances, mental health and personal relationships.²⁰⁸

Kerr, O'Brennan and Vazquez Mendoza observe that the majority of educational and awareness raising activities surrounding gambling are initiated by civil society actors and charities rather than the State.²⁰⁹ They point to the need for a public health approach or policy to address gambling-related harms in accordance with international best practice.²¹⁰ The Conclusions of the 2019-2020 NDAS also observe that the "available evidence suggests that a public health approach to gambling can reduce gambling-related harms via the regulation of access to gambling, through to the screening of individuals at risk and the provision of services for individuals with an identified

²⁰⁰ A. Kerr, J. O'Brennan and L. Vazquez Mendoza, 'Gambling trends, harms and responses: Ireland in an international context' (Maynooth University, 2021) at p. 72, [available here](#) (last accessed 20 November 2022).

²⁰¹ *Ibid.*

²⁰² *Ibid.* at p 69.

²⁰³ *Ibid.* at pp 69-72.

²⁰⁴ D. Mangan et. al., 'Gambling in the Republic of Ireland Results from the 2019–20 National Drug and Alcohol Survey' (Health Research Board 2022) at pp 31-32, [available here](#) (last accessed 21 November 2022).

²⁰⁵ A. Kerr, J. O'Brennan and L. Vazquez Mendoza, 'Gambling trends, harms and responses: Ireland in an international context' (Maynooth University, 2021) at p. 69-76, [available here](#) (last accessed 20 November 2022).

²⁰⁶ *Ibid.* at p. 72.

²⁰⁷ D. Mangan et. al., 'Gambling in the Republic of Ireland Results from the 2019–20 National Drug and Alcohol Survey' (Health Research Board 2022) at p 32, [available here](#) (last accessed 21 November 2022).

²⁰⁸ C. Fulton, 'Playing Social Roulette: The Impact of Gambling on Individuals and Society in Ireland Final Report' (University College Dublin, June 2015) at p.47, [Available here](#) (last accessed 23 November 2022).

²⁰⁹ A. Kerr, J. O'Brennan and L. Vazquez Mendoza, 'Gambling trends, harms and responses: Ireland in an international context' (Maynooth University, 2021) at pp 77-79, [available here](#) (last accessed 20 November 2022).

²¹⁰ *Ibid.*, at p. 69.

gambling problem”.²¹¹ Numerous commentators and stakeholders identify a need for more research, knowledge and data collection regarding gambling behaviours in Ireland, including the risk factors, both social and psychological, associated with problem gambling, and the extent of gambling related harms.²¹²

The Pathway to Reform

The Minister of State for Law Reform, Youth Justice and Immigration, Deputy James Browne, remarked in 2021 that “the current legislative framework is fragmented, outdated, lacks a coherent licensing and regulatory approach, and is in need of significant reform”.²¹³ Shortcomings were identified as early as 1996 in the Report of the Casino Task Force, followed by the Report of the Interdepartmental Group in 2000 and the Report of the Casino Committee on the Regulation of Gaming in Ireland in 2008.²¹⁴ A paper entitled [Options for Regulating Gambling](#) was published in December 2010 following a public consultation undertaken by the Department of Justice and Equality (DOJE). The General Scheme of the Gambling Control Bill was published on 9 July 2013; however, the draft legislation was not progressed through the Oireachtas.²¹⁵

In 2017, the Minister of State and the newly established Gambling Policy Division in the DOJE began reviewing plans for a potential gambling regulatory authority.²¹⁶ The review included an examination of gambling regulatory authorities in other states with a focus on the UK and Malta as they are considered to share significant commonalities with Ireland as regards their gambling situations.²¹⁷ The review concluded that a significant change of regulatory approach was necessary to achieve a modern licensing and regulatory structure.²¹⁸

An Irish Gambling Sector Risk Assessment published by the Department of Finance in February 2018 concluded that: “[the proposed Gambling Control Bill] will require some significant updating to take account of developments since 2013. The preparation of legislation will be a major and complex undertaking to take into account the breadth of this sector and the significant cross-border and electronic on-line operations.”²¹⁹

²¹¹ D. Mangan et. al., ‘Gambling in the Republic of Ireland Results from the 2019–20 National Drug and Alcohol Survey’ (Health Research Board 2022) at p 32, available [here](#) (last accessed 21 November 2022).

²¹² *Ibid.* See also: C. Fulton, ‘Playing Social Roulette: The Impact of Gambling on Individuals and Society in Ireland Final Report’ (University College Dublin, June 2015) at p.58, [Available here](#) (last accessed 23 November 2022); A. Kerr, J. O’Brennan and L. Vazquez Mendoza, ‘Gambling trends, harms and responses: Ireland in an international context’ (Maynooth University, 2021) at p. 62, [available here](#) (last accessed 20 November 2022); and Joint Committee on Justice, ‘Report on Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill’ (May 2022) at p. 25, available [here](#) (last accessed 25 November 2022).

²¹³ Law Society, ‘Bill to establish gambling regulator and control online sites’ (22 October 2021), available [here](#) (last accessed 19 November 2022).

²¹⁴ McCann Fitzgerald, ‘Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland’ (11 December 2019) at pp 3-4, available [here](#) (last accessed 18 November 2022).

²¹⁵ *Ibid.*, at p. 4 (last accessed 18 November 2022).

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*

²¹⁹ Department of Finance, Irish Gambling Sector Risk Assessment (March 2018) at p. 26, available [here](#) (last accessed 18 November 2022).

The Government agreed in principle on 10 January 2018 to the establishment under statute of an independent regulatory authority for the gambling industry.²²⁰ It also decided to establish the Inter-Departmental Working Group on the Future Licensing and Regulation of Gambling (the “IDGW”) to review the provisions of the General Scheme of the Gambling Control Bill 2013 and determine whether they remained fit for purpose. In its 2019 Report to Government, the IDWG concluded that the present framework “does not provide for a coherent licensing and regulatory approach to gambling activities (apart from the specific legislation for the National Lottery)”.²²¹ It stated that “comprehensive reform of all legislation relating to the licensing and regulation of all gambling activities should be progressed, building on updated provisions in the 2013 General Scheme and having regard to recent developments”.²²²

The IDWG found that the dispersal of responsibility for the licensing and regulation of gambling activities amongst a multiplicity of actors contributed to a fragmented, inconsistent and ineffective regulatory environment, which negatively impacted compliance and enforcement, the protection of consumers and vulnerable persons, and revenue raising possibilities.²²³ It called for the establishment of an independent gambling regulatory authority with responsibility for all licensing and regulatory activities.²²⁴ It suggested that the UK Gambling Commission serve as a model due to the commonality of market features, whilst indicating that the Malta Gaming Authority was also worth examining.²²⁵ Whilst acknowledging the significant start-up costs involved, the IDWG suggested that the authority could ultimately finance itself through licencing fees and duties.²²⁶

The IDWG proposed establishing single gambling licences across multiple activities “for Business to Business (B2B) operators and Business to Customer (B2C) (gaming and betting) operators”.²²⁷ It recommended that the suitability and propriety of all applicants be intensively investigated by the new regulatory authority, and that the beneficial ownership of any corporate applicant be determined.²²⁸ It recommended that all gambling licences have conditions attached aimed at protecting consumers and vulnerable persons, and tackling money laundering and fraud.²²⁹ It recommended that the new gambling legislation include comprehensive anti-money laundering (AML) provisions and provide for the establishment of a dedicated AML unit within the proposed authority.²³⁰ It also suggested that the authority include a Sports Betting Integrity Unit, modelled on the UK equivalent, with a view to addressing the problems of match fixing and betting-related manipulation of sporting activities.²³¹

The IDWG indicated that the existing legislative and regulatory framework required updating to regulate on-line gambling activities in Ireland, and to enhance the protection afforded to consumers

²²⁰ *Ibid.*

²²¹ IDWG, ‘Report to Government’ (March 2019) p. 11, para. 2.1, available to download [here](#) (last accessed 18 November 2022).

²²² *Ibid.*, at p. 17.

²²³ *Ibid.*, at p. 11, para. 2.1,

²²⁴ *Ibid.*, at pp 6-7.

²²⁵ *Ibid.*, at p. 6.

²²⁶ *Ibid.*

²²⁷ *Ibid.*, at p. 6, para. 4.2.

²²⁸ *Ibid.*

²²⁹ *Ibid.*

²³⁰ This would help ensure compliance with the [Fourth EU AML Directive](#). See *Ibid.*, at pp 73-77.

²³¹ *Ibid.*, at chapter 5.

and vulnerable individuals.²³² It recommended that the proposed regulatory authority “have the primary responsibility and mandate to ensure consumer protection” and be afforded enforcement powers aimed at enhancing the protection of vulnerable persons.²³³ It supported the establishment of an Alternative Disputes Resolution mechanism to settle disputes between consumers and operators.²³⁴ It also supported the establishment of a Social Fund to address gambling-related harms, which could be funded via levies imposed on operators.²³⁵ It suggested that the Social Fund could assist in the provision of treatment services for gambling addiction; and fund research, training, community interventions, public education and awareness raising activities.²³⁶ It also recommended that the new regulatory authority develop policies and regulations in consultation with relevant stakeholders concerning promotion, advertising and sponsorship.²³⁷

In December 2019, McCann Fitzgerald published its ‘Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland’.²³⁸ In preparing the Report, it sought feedback from:

- stakeholders who participated in a public consultation convened in Quarter 1, 2019; and
- stakeholders who participated in a public seminar organised by the DOJE on 15 May 2019.

In its Report, McCann Fitzgerald agreed with the majority of the IDWG’s recommendations.²³⁹

The Government published the General Scheme of the Gambling Regulation Bill on 21 October 2021,²⁴⁰ which gave effect to a commitment in the Programme for Government to establish a gambling regulator.²⁴¹ It forwarded the General Scheme to the Joint Committee on Justice for the purpose of conducting PLS in October 2021. Also, in October 2021, the Department of Justice undertook a regulatory impact analysis (RIA) of the Bill.

The regulation of gambling activities has also been the subject of two recent private member’s bills (PMBs). A PMB, entitled the Gambling Control Bill 2018, was introduced in Dáil Éireann by Deputies Anne Rabbitte, Jim O’Callaghan and Jack Chambers. The object of the Bill was to establish a framework for the regulation, including licensing, of gambling in Ireland and to provide for related matters. The Bill was debated at Second Stage before Dáil Éireann, however ultimately lapsed with the dissolution of Dáil Éireann and Seanad Éireann. A PMB, entitled the Gambling (Prohibition of Advertising) Bill 2021, was introduced in Dáil Éireann by Deputies Mark Wall, Marie Sherlock, Rebecca Moynihan;, Annie Hoey, and Ivana Bacik. The object of the Bill is to regulate in

²³² Ibid., at p. 11, para. 2.3, and chapters 6 and 7.

²³³ Ibid., at pp 88 and 96.

²³⁴ Ibid., at p. 115.

²³⁵ Ibid., at pp 96-97.

²³⁶ Ibid., at p. 117.

²³⁷ Ibid., at chapter 4.

²³⁸ McCann Fitzgerald, ‘Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland’ (11 December 2019) available [here](#) (last accessed 18 November 2022). The report was prepared pursuant to the specifications outlined in tender SRSS/C2018/079 under the technical supervision of the European Commission and the DOJE.

²³⁹ Ibid., at pp 1 and 6.

²⁴⁰ General Scheme of Gambling Regulation Bill (Department of Justice Press Release, 21 October 2021) available [here](#) (last accessed 16 November 2022).

²⁴¹ Programme for Government, ‘Our Shared Future’ (2020) at p. 86, available [here](#) (last accessed 16 November 2022).

the public interest advertising and sponsorship of gambling; and to provide for related matters. It was debated at Second Stage before Seanad Éireann on 23 March 2022.

Regulatory Impact Analysis (RIA)

In October 2021, the Department of Justice undertook an RIA of the Gambling Regulation Bill. The RIA considers two 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.”²⁴²

Policy option 2 was the preferred option.²⁴³ Table 7, below, sets out the associated costs, benefits, and impacts identified by the Department relating to their preferred option to legislate.²⁴⁴

Table 7: Costs, benefits and impacts of introducing new gambling regulation legislation

Costs	Benefits	Impacts
<p>It is estimated that a statutory Gambling Regulatory Authority would employ in the region of 100 staff members and cost approximately €10 million per annum to operate.</p> <p>Some establishment costs are likely to have to be met.</p> <p>However, it is anticipated that the body could become self-funding over time via licence fees etc.</p>	<p>The Authority will have the powers to:</p> <ul style="list-style-type: none"> • implement a robust licensing system; and • take enforcement action (including, where necessary, the power to impose sanctions where providers are non-compliant). 	<p>The establishment of an independent Gambling Regulatory Authority would bring much needed regulation to the sector in terms of:</p> <ul style="list-style-type: none"> • public safety and customer protection, • gambling advertising, and • revenue raising. <p>It would bring an increased awareness of the dangers of problem gambling.</p> <p>It would provide assistance in relation to funding for support mechanisms for those affected by gambling addiction.</p>

²⁴² Department of Justice, ‘Regulatory Impact Analysis’ (October 2021) at p. 2.

²⁴³ *Ibid.*, at p. 2.

²⁴⁴ *Ibid.*, at pp 2-6.

Costs	Benefits	Impacts
	<p>The Authority's key objectives would include:</p> <ul style="list-style-type: none"> • providing a consistent and user-friendly licensing system, which is easily auditable; • creating a fairer and more accountable gambling system for customers; • preventing gambling from being a source of support for criminal and terrorist-related activities, including via money laundering; • requiring the promotion of safe and responsible gambling; and • helping to combat problem gambling. 	
	<p>Responsibilities relating to the licensing and regulation of gambling activities is currently dispersed across multiple Government Departments and agencies.</p> <p>The establishment of a Gambling Regulatory Authority would bring these responsibilities under one body, easing the administrative burden across a variety of Departments and allowing for a more consistent and effective approach to licensing, compliance and enforcement, consumer protection and the safeguarding of children.</p>	

Source: This table is derived from a table included in the RIA for the Gambling Regulation Bill, Department of Justice, October 2021.

Policy objectives

Consolidation of existing gambling legislation

The RIA indicates that the current legislation on the licensing of gambling activities in Ireland is inadequate and outdated, with many of the legal provisions dating back to shortly after the

foundation of the State.²⁴⁵ It notes that “[t]here is significant public and political criticism that enforcement of the licensing conditions that exist is sporadic and inconsistent”,²⁴⁶ and indicates that the current regulatory environment is “disjointed”.²⁴⁷

The RIA observes that the most significant growth in the international gambling sector in the past decade has been in the online sphere with technological advances accelerating the move from land-based to online activities.²⁴⁸

The RIA notes the IDWG’s observation that the failure to adequately regulate gambling limits the potential to raise revenue from licensing fees, duties and taxation, which could better fund both regulatory activities and help to address societal issues associated with problem gambling.²⁴⁹ It supports the IDWG’s recommendation that a new, adequately resourced regulatory body be established to address these shortcomings.²⁵⁰

Consolidation of licencing

The RIA notes the IDWG’s recommendations regarding licencing, including its recommendation that a new reformed licence process “must be clearly set out in legislation”.²⁵¹

The RIA further notes the IDWG’s observation 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”.²⁵² The IDWG Report indicated that online gambling is gradually replacing land-based gambling and that the ultimate licensing approach must reflect this.²⁵³

Balancing regulation with consumer needs

The RIA notes the IDWG’s suggestion that the critical element to improving consumer protection in relation to gambling is the establishment of a new regulatory body. It also notes the IDWG’s proposal that the new regulatory body should be the competent authority for the purposes of EU or international consumer protection co-operation in the gambling sector.²⁵⁴

Safeguards and the establishment of a Social Impact Fund

The RIA recalls the IDWG’s recommendation that a Social Impact Fund 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”.²⁵⁵

The RIA notes the other proposed safeguarding measures that are to be implemented, including a prohibition on the promotion of gambling to children; measures to assist and protect persons prone

²⁴⁵ Ibid., at pp 6-7.

²⁴⁶ Ibid., at p 9.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid., at pp 9-10.

²⁵⁰ Ibid., at pp 2 and 10.

²⁵¹ Ibid., at pp 10- 11

²⁵² Ibid., at p. 11.

²⁵³ Ibid.

²⁵⁴ Ibid., at p. 12

²⁵⁵ Ibid.

to problem gambling; and the regulation of advertising, promotions and sponsorships in relation to gambling.²⁵⁶

Pre-legislative scrutiny of the General Scheme of the Bill

The Government published the General Scheme of the Bill on 21 October 2021.²⁵⁷ In accordance with Standing Order 173, the Minister of State for Law Reform, Youth Justice and Immigration, Deputy James Browne, forwarded the General Scheme to the Joint Committee on Justice (the “Committee”) for the purpose of conducting PLS during October 2021. As part of the PLS process, the Committee, received submissions from a variety of stakeholders, including academics, bodies representing stakeholders in the gambling industry, commercial entities involved in the gambling industry, and charitable organisations that provide treatment services to problem gamblers and raise awareness regarding gambling related harms.²⁵⁸ Several key themes were identified in these submissions as outlined in Table 8 below.

Table 8: Key Themes identified during PLS²⁵⁹

No	Theme	Head(s)
1	Definition of gambling-related terms	2, 14, 40, 41 and 43
2	Consultation with, and representation of, a wide range of stakeholders	10, 21, 37, 108 and 114
3	Limitations of the stated purpose of the Gambling Regulatory Authority of Ireland	14
4	Fees and levies should be fair and sufficient	28 and 113-117
5	Issues with licensing arrangements	49(4)(e)
6	Concerns about “bet refused” docketts	55 and 96
7	Fairness of sanctions	85-89
8	Powers of the Chairperson and CEO	22 and 72
9	Scope of safeguarding measures	105
10	Protection of children	106
11	Practical issues with the “Exclusionary Register”	108
12	Balancing controls on advertising and sponsorship	49 and 109-111
13	Ring-fencing of the Social Impact Fund for addressing gambling harm	115

²⁵⁶ *Ibid.*, at p. 13.

²⁵⁷ General Scheme of Gambling Regulation Bill (Department of Justice Press Release, 21 October 2021) available [here](#) (last accessed 16 November 2022).

²⁵⁸ See Joint Committee on Justice, ‘Report on Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill’ (the “PLS Report”), Appendix 2 - Stakeholders, Submissions and Correspondence (“Appendix 2”), available to download [here](#) (last accessed 16 November 2022).

²⁵⁹ PLS Report, at pp 29-35, available [here](#) (last accessed 16 November 2022).

As part of the PLS process, the Committee also convened public engagements with several stakeholders on [8 March 2022](#) and [22 March 2022](#) respectively.²⁶⁰ During these public engagements, the following areas were discussed in evidence to the Committee:

1. online gambling versus retail gambling;
2. impact of gambling advertising and of over-exposure to gambling on young people;
3. impact of gambling advertising and sponsorship in sport;
4. protection of vulnerable individuals or problem gamblers;
5. lack of data on gambling behaviour in Ireland;
6. fixed-Odds Betting Terminal (FOBTs) and Electronic Gaming Machines;
7. self-exclusion scheme in betting shops; and
8. other suggested measures to strengthen the Bill.²⁶¹

The Committee published its PLS Report on 17 May 2022.²⁶² In the PLS Report, the Committee welcomes the commitment in the General Scheme to include the recommendations contained in the IDWG Report.²⁶³ It also identifies several issues for further examination, including: “the prevalence and impact of gambling advertising, particularly on young people; measures to protect vulnerable individuals from developing a problem addiction; Fixed-Odds Betting Terminals; and the self-exclusion scheme for gamblers”.²⁶⁴ It included sixteen recommendations, as outlined below.²⁶⁵

PLS Recommendations

This section of the Digest seeks to assess the extent to which the Committee’s recommendations have been addressed in the Bill, as presented for Second Stage. To do this, a traffic light system is used by the L&RS, indicating whether a key issue is accepted and reflected in the Bill, whether a consistent or unclear approach is used, and whether the recommendation has not been accepted or is not reflected in the Bill. This traffic light approach represents the L&RS’ own, independent analysis of the Bill.

A key setting out the traffic light dashboard is provided in Table 9 below. The L&RS is grateful to the Departmental officials for providing their assessment of the actions taken and comments in relation to the PLS recommendations. These are replicated in the right-hand column of the table and were derived from a separate analysis provided by the Department.

²⁶⁰ For the full list of stakeholders who participated in these public engagements, see PLS Report, at p. 11, available [here](#) (last accessed 16 November 2022).

²⁶¹ PLS Report, at pp 13-28, available [here](#) (last accessed 16 November 2022).

²⁶² The PLS Report is available to download [here](#) (last accessed 16 November 2022).

²⁶³ The Inter-Departmental Working Group reviewed the General Scheme of the Gambling Control Bill 2013, which in turn addressed the subject of gambling controls and the regulatory approach to gambling in Ireland. See PLS Report, at p. 4, available [here](#) (last accessed 16 November 2022).

²⁶⁴ PLS Report, at p. 4, available [here](#) (last accessed 16 November 2022).

²⁶⁵ PLS Report, at pp 7-9, available [here](#) (last accessed 16 November 2022).

Table 9 Key to traffic light dashboard comparing the Bill as published with Committee PLS recommendations.









L&RS categorisation of the Department's response in the Bill to the Committee's key issue	Traffic light dashboard used in Table to highlight impact of the Committee's PLS conclusion
Key issue has clearly been accepted and is reflected in the Bill.	
The Bill may be described as adopting an approach consistent with the key issue or the impact of the key issue is unclear.	
Recommendation has not been implemented in the Bill, but additional considerations are present.	
Key issue has not been accepted or implemented in the Bill.	



Table 10 Traffic light dashboard comparing the Bill as published with Committee PLS recommendations.


Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill
1. The Committee recommends that an examination be undertaken into the possibility of introducing a Domain Name System (DNS) to block access, at a country level, to gambling operators that are not licensed within the State.	 <p>Under section 74 (Part 4, Chapter 2) i.e. <i>Application to court to direct relevant person to cease prohibited gambling activity and related matters</i>, where the Authority has reasonable grounds for believing that a person is providing a prohibited gambling activity, the Authority may apply to the High Court for either or both—</p> <p>(a) an order directing that person to cease providing the prohibited gambling activity, and</p> <p>(b) one or more of the orders specified in subsection (2).</p> <p>One such order (specified in subsection 2) is an order directing that an internet service provider or a provider of an application store service, as the case may be, block access to a prohibited gambling activity provided by a relevant person.</p>


Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
<p>2. The Committee recommends that a pre-watershed ban be applied to all forms of gambling advertising.</p>		<p>Part 6 of the Bill includes extensive measures to protect children and to address the proliferation of gambling advertising on all forms of media.</p> <p>Section 141 of the Bill provides for a watershed prohibiting the broadcast of gambling advertising on television and radio between the hours of 5:30am to 9:00pm.</p> <p>In addition to the watershed, section 141(3) provides for a wide ranging power to allow the Authority to prescribe the times, place and events where gambling advertising can be broadcast, displayed or published, and allows the Authority to specify the frequency which advertising can be broadcast, the duration of advertisements, and the volume / amount of advertisements that can be shown.</p> <p>This power will allow the Authority to address the issue of gambling advertising on social media, online and on traditional media such as on television, radio and in publications and outdoor advertising such as billboards etc.</p>
<p>3. The Committee recommends that the potential to decouple sports advertising and gambling advertising be evaluated, particularly in terms of sports advertisements aimed at young people.</p>		<p>Part 6 of the Bill contains provisions to protect children from gambling, including prohibiting advertising that appeals or that is intended to appeal to children. This approach goes further than the recommendations of the Oireachtas Committee in that it applies to all forms of advertising and is not just limited to sports advertising. In particular, section 139 of the Bill prohibits advertising portraying gambling as attractive to children, advertising that condones children participating in gambling, and advertising that encourages or seeks to exploit a child to gamble.</p> <p>Furthermore the Bill includes additional protections which were not considered by the Committee's Report. Part 6 includes a number of measures to address sponsorship and the supply of branded clothing and merchandise by gambling companies. In particular section 142 provides for an offence of manufacturing, selling or supplying clothing or merchandise featuring branding of a gambling licensee/gambling activity aimed at children. This</p>


Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<p>measure includes items that are provided free of charge.</p> <p>Section 150 further enhances the measures to protect children introduced in this Bill and creates a new offence for licensees to sponsor:</p> <ul style="list-style-type: none"> • an event (not limited to sporting events) where the majority of participants or competitors are children; • an event aimed at children; • an organisation, club or team, or any premises used by organisation, club or team that has children as members; or • a public activity that appeals to children. <p>Any person convicted of such an offence shall be liable on conviction to up to 5 years' imprisonment and / or a fine at the discretion of the courts.</p>
<p>4. The Committee recommends that the regulator to be established in the General Scheme will apply its new Codes equally to all operators, to ensure socially responsible operations and to afford protections to their customers.</p>		<p>Part 6 of the Bill provides for extensive obligations on licensees to safeguard persons participating in gambling. These measures will apply to all licensees and persons engaged by licensees and will be enforced with the Gambling Regulatory Authority equally. Some of these measures are set out as follows:</p> <p>Inducements: Importantly, Part 6 includes measures to address the issue of licensees offering inducements and promotions to players. Section 148 provides for a new offence for a licensee to offer a person any form of inducement to encourage that person to gamble or to continue to gamble. This includes the offer of hospitality, free bets or VIP treatment, for example, for the purposes of enticing that person to gamble, to encourage them to continue gambling or to dissuade them from stopping gambling where they wish to do so.</p> <p>Promotions: Similarly, section 151 of the Bill provides that the Minister, following consultation with the Authority may make regulations to limit or prohibit the offer of promotions that are intended to directly or indirectly encourage people to gamble.</p>

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill
	<p>These promotions could include, but are not limited to the offer of free bets equivalent to the amount of money a person originally bet, or a return of /matching money deposited as a credit for gambling etc.</p> <p>A person convicted of breaching these regulations shall be guilty of an offence and shall be liable on conviction to up to 5 years imprisonment and / or a fine at the discretion of the Courts</p> <p>Ability to set monetary and time limits: Section 156 of the Bill obliges licensees to provide facilities to allow persons to limit the amount of money they can gamble and the periods of time that limit may apply too as well as specifying the information to be provided to players.</p> <p>In addition to the matters set out above, part 6 of the Bill also includes a number of other measures to protect customers such as:</p> <ul style="list-style-type: none"> • regulation making powers to allow the Authority to set limits on the amount of money that may be lodged to a person's account in a particular timeframe (section 162); • the power of the Authority to prescribe certain times / hours concerning opening hours and when gambling activities may not be provided by a licensee on websites, apps or by other remote means. • information to be provided to people gambling online, while they are playing, to inform them of their winnings and losses; • obligations on licensees to train staff to be able to identify excessive and compulsive gambling behaviour according to standards set by the Authority; • obligations on licensees to provide proper and transparent information to customers when opening an account;

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<ul style="list-style-type: none"> obligations to refund money where a person closes their account with a licensee; and requirements on licensees to provide measures to prevent children from accessing their websites. <p>Any person convicted of breaching these protections shall be guilty of an offence and shall be liable on conviction of up to 5 years imprisonment and/ or to a fine at the discretion of the courts.</p>
<p>5. The Committee recommends that the General Scheme include specific references to the prohibition of gambling with credit cards, alongside the proposed ban on gambling with credit.</p>		<p>Part 6 of the Bill includes a number of measures to protect people while gambling.</p> <p>Section 157 of the Bill provides for an explicit ban on the use of credit cards as a means of payment for gambling. This measure goes further than the Joint Committee's recommendations as section 157(2) also prohibits the use of electronic payment methods that are funded by credit cards and the offer of credit facilities to players.</p> <p>Furthermore to future proof this range of protections, section 157(3) also includes a regulation making power to allow the Authority to prohibit other methods of payment and customer account schemes if they are identified as contributing to excessive or compulsive gambling.</p> <p>Finally, while not directly linked to payment by credit, section 170 of the Bill includes a prohibition on facilities to withdraw cash being located or provided on or at a licensee's premises.</p>
<p>6. The Committee recommends that automated software be introduced to better complete verification checks of a customer's age when registering for an account with an online gambling website.</p>		<p>The Bill includes extensive measures to protect children from gambling.</p> <p>Section 149 of the Bill prohibits children from participating in a gambling activity. A licensee that allows a child to gamble shall be guilty of an offence and shall be liable on conviction to up to 8 years imprisonment and/ or a fine.</p> <p>In respect of online gambling, section 161 provides that any persons who wish to gamble online must open an account with a licensee and licensees shall be legally obliged to verify the identity of the applicant and that the applicant is 18 years or</p>



Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<p>older. Specifically, section 161(4) provides that the Authority can set out via regulation how licensees will be required to verify an applicant's identity and their age.</p> <p>This approach will provide the Authority with greater flexibility in setting out the most efficient and effective means of verifying an applicant's identity and age, and will not just limit those methods solely and specifically to the use of automated software if a better method or technology emerges in the future.</p>
<p>7. The Committee recommends that consideration be given, with full respect to GDPR provisions, to allowing background checks to be carried out on an applicant when they register for an online gambling website, to ascertain whether this applicant may have any financial vulnerabilities.</p>		<p>It is not considered appropriate to implement this recommendation given the data protection concerns in allowing gambling companies to conduct their own analysis into a person's private financial affairs.</p> <p>Secondly, while background / affordability checks and similar have been implemented by U.K. based companies, there is no statutory or legal basis for this activity. It has been shown that this system is open to abuse and manipulation by both customers and gambling companies as well as mistakes being made.</p> <p>Unlike the U.K. and elsewhere, we do not have a culture of credit rating agencies or companies in the State and therefore it would be very difficult to potentially ascertain a person's financial vulnerabilities. Furthermore such a measure could leave parties open to legal liabilities in the absence of certainty as to how such a measure could operate or be enforced.</p> <p>However, the Bill contains a number of measures to protect people participating in gambling such as:</p> <ul style="list-style-type: none"> • obligations on licensees to train staff to be able to identify excessive and compulsive gambling behaviour according to standards set by the Authority; • obligations on licensees to provide proper and transparent information to customers



Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<p>when opening an account and while participating in gambling activities;</p> <ul style="list-style-type: none"> • information to be provided to people gambling online, while they are playing, to inform them of their winnings and losses; • obligations to refund money where a person closes their account with a licensee; and • obliging licensees to provide facilities to allow people to set limits on the amount of money that may be lodged to their account in a particular timeframe; <p>In addition, the Bill (section 162) provides that the Authority may make regulations to set limits on the amounts of money that may be lodged when gambling online and also limits on the number of lodgements a person may make with licensees within in a particular timeframe.</p> <p>The Department and the Authority will continue to monitor developments in relation to ‘affordability checks’ but analysis and consideration to date does not demonstrate that it is appropriate to provide for these on a statutory basis.</p>
<p>8. The Committee recommends that Heads 49, 86 and 92 be amended to apply limits to all gambling products, stakes, prizes and deposits, including those online.</p>		<p>Schedule 3 of the Bill sets out the maximum stake and prize limits for the activities permitted under a gambling licence. Section 82(2) provides that the Authority may vary these amounts under regulations made with the consent of the Minister.</p> <p>With respect to monetary / deposit limits, section 162 of the Bill provides that the Authority may make regulations to set limits on the amount of money that may be lodged to a person’s account generally and also limits on the amount of money that may be lodged to a person’s account with a licensee within in a particular timeframe.</p> <p>Where a licensee fails to comply with any such regulations made by the Authority they shall be guilty of an offence with penalties of to up to 5 years imprisonment and / or a fine at the discretion of the courts.</p>


Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
<p>9. The Committee recommends that a scheme of escalating fines be introduced to deter harmful behaviour by the gambling industry and to better protect vulnerable individuals. This scheme should include a threshold that any breach of the self-exclusion register by a gambling provider results in an automatic loss of their licence.</p>		<p>While the Bill does not provide for escalating fines per se, it provides for the Authority to have a robust and appropriate array of powers to monitor and enforce compliance with the statutory regulatory system.</p> <p>Under section 181, where the Authority is of the opinion that a licensee has contravened (or is contravening) a relevant obligation, the Authority is empowered to undertake any of a number of actions to address that non-compliance. When determining which course of action to take in relation to such non-compliance, the Authority will have regard to a number of factors, as follows:</p> <ul style="list-style-type: none"> • the nature and gravity of the alleged failure; • whether the objective of the exercise of the power is primarily to deter others; • whether the objective of the exercise of the power is primarily to achieve compliance; • the damage which may be caused by the failure to comply; • how easily the damage may be reversed; • the duration of the failure to comply; • any gain made or loss avoided by the licensee or any connected person through the failure to comply; • any previous non-compliance notice issued to the licensee, any previous condition, suspension or revocation of a licence of that licensee, any previous sanction imposed on that licensee, any conviction of the licensee for an offence under this legislation. <p>The Bill provides, in certain circumstances, for the Authority to issue a notice of non-compliance where it is satisfied that a licensee has contravened or is contravening a relevant obligation. A notice of non-compliance may, where the Authority considers that the failure to comply so merits, contain an advice, caution, warning or</p>

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill
	<p>reprimand to the licensee concerned or specify the imposition of one or more than one condition on that licensee's licence. Where a notice of non-compliance does not contain an advice, caution, warning or reprimand or specify the imposition of one or more conditions, the Authority may apply to the Circuit Court for suspension or revocation of that licence.</p> <p>Following a directed investigation, the Authority is empowered to undertake any of a range of appropriate actions, including referral of the investigation report for independent adjudication. An adjudication officer, following consideration of relevant matters, may decide to impose one or more of the following administrative sanctions:</p> <ul style="list-style-type: none"> (a) a financial penalty; (b) suspension of a gambling licence; (c) revocation of a gambling licence; (d) imposition of a condition on a gambling licence. <p>In imposing an administrative sanction, where an adjudication officer or the appropriate court is of the view that the failure to comply with a relevant obligation by a licensee is sufficiently serious, he, she or the Court may suspend or revoke or impose a condition on—</p> <ul style="list-style-type: none"> (a) the gambling licence in relation to which a contravention of a relevant obligation has occurred, and (b) any other gambling licence, not being the gambling licence referred to in (a) held by the licensee. <p>The Bill provides that the amount of a financial penalty, to be imposed as an administrative sanction on a licensee, shall not exceed €20 million or, if greater, 10% of the turnover of the licensee in the financial year preceding the date of the decision as to contravention or in any year in which</p>

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<p>the act or acts occasioning the administrative sanction occurred. In determining the amount of the financial penalty to be imposed, an adjudication officer shall have regard to a range of factors provided for in section 197 of the Bill.</p> <p>The Bill provides for prosecution of a range of offences on a summary basis or on indictment. Summary proceedings for an offence under this Bill may be brought and prosecuted by the Authority.</p> <p>With respect to the Committee's recommendation concerning the National Exclusion Register, the Bill provides for a number of obligations on the licensees concerning the operation of the Register such as -</p> <ul style="list-style-type: none"> • prohibiting a person on the Register to gamble, • a prohibition on accepting a payment for gambling from a person on the Register, or • a prohibition on communicating with a person on the Register in a manner that would encourage them to gamble or that promotes gambling. <p>A licensee that breaches any of these prohibitions shall be guilty of an offence and shall be liable on conviction to up to 5 years imprisonment and / or a fine at the discretion of the courts. The court may also consider an order to suspend or revoke a licence.</p> <p>The Bill also takes account of situations where a licensee may not be able to verify if a person is on the register due to the Authority's systems or software is not operating properly. In those circumstances it would disproportionate to criminalise licensees and against the principles of natural justice to strip them of their licence by applying a blanket measure as recommended by the Committee.</p>
10. The Committee endorses the need for the regulator established within this		Part 2 of the Bill (sections 31 and 32) includes extensive provisions to allow the Authority to undertake research in relation to gambling and


Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
<p>legislation to gather comprehensive data on the behaviour of those who gamble in Ireland, to ensure effective and evidence-based regulation of the Irish gambling market.</p>		<p>gambling activities in the State and elsewhere concerning the issues of:</p> <ul style="list-style-type: none"> • gambling addiction, • IT developments in relation to the provision of gambling activities, and • policy approaches to the regulation of gambling and gambling activities in jurisdictions outside the State, amongst other issues. <p>The Authority will also be empowered to monitor and review national and international developments in relation to gambling activities and the regulation of same and shall be obliged to submit reports and recommendations to the Minister for her / his consideration. Furthermore, the Bill provides that the Minister may identify and refer other issues and actions to the Authority for their consideration.</p>
<p>11. The Committee recommends that the legislation ensures that all Fixed-Odds Betting Terminals (FOBTs) are banned in Ireland.</p>		<p>The Bill provides for a new gaming licence (section 85) to replace the existing system of gaming permits and licences currently provided under the Gaming and Lotteries Act 1956.</p> <p>Section 85(1) provides that the Authority shall prescribe a list of games that may be provided under all gaming licences generally, and when issuing a gaming licence, the Authority shall specify the types of games and activities that each licensee may provide under their licence.</p> <p>Where a game is not specified under a licence it cannot be provided and any person that does so shall be guilty of an offence and liable to up to eight years imprisonment and / or a fine.</p> <p>This approach is broader and more flexible than an outright ban on an individual game or a particular type of gaming machine and will provide the new Authority with greater flexibility addressing potentially problematic gambling activities.</p>
<p>12. The Committee recommends that there should be better enforcement of the ban on gambling within pubs.</p>		<p>The recently published General Scheme of the Sale of Alcohol Bill contains explicit prohibitions on gaming and betting within licensed premises. These provisions are found in Heads 113 and 114</p>

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<p>of that General Scheme. An Garda Síochána were consulted in depth during the preparation of that General Scheme and are aware of their responsibilities in enforcing those provisions when that Bill is enacted. Furthermore, officials in the Department will work to ensure there is a coordinated approach across both pieces of legislation as they progress.</p>
<p>13. The Committee recommends that GAMSTOP, the self-exclusion database preventing access to online operators in the UK, could extend its services to Ireland, to address the lack of such a self-exclusion database for online operators in the Irish market.</p>		<p>Part 2, Chapter 3 of the Bill provides for the establishment and operation of a National Gambling Exclusion Register by the Authority. The Register will allow persons to register with the Authority to exclude themselves from gambling online with licensees. This is similar to the GAMSTOP system which operates in the UK.</p> <p>The Register will be software based and remote licensees must comply with the terms of the Register and must ensure that their IT systems and software are compatible with, and can interact with the Authority's systems as a requirement of holding a licence.</p> <p>Section 45 of the Bill provides for a number of obligations on licensees concerning the operation of the Register such as -</p> <ul style="list-style-type: none"> • prohibiting a person on the Register to gamble, • a prohibition on accepting a payment for gambling from a person on the Register, or • a prohibition on communicating with a person on the Register in a manner that would encourage them to gamble or that promotes gambling. <p>A licensee that breaches any of these prohibitions shall be guilty of an offence and shall be liable on conviction to up to 5 years imprisonment and / or a fine at the discretion of the courts.</p>
<p>14. The Committee recommends that Local Authorities be cognisant of the potential impacts on the health</p>		<p>Part 5, Chapter 4 of the Bill sets out the information required by the Authority as part of the application process for a licence (section 94). In particular, applicants for an in-person gambling licence must</p>

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
<p>and well-being of a community, when granting multiple licences for land-based betting in predominately disadvantaged communities and that Local Authorities should be discouraged from granting multiple licences in such areas without sufficient reasons.²⁶⁶</p>		<p>provide detailed information about the premises from which they intend to operate from (section 96). In determining the suitability of a premises to provide gambling from, the Authority must consider the proximity of the premises to schools and if gambling is offered elsewhere in the area.</p> <p>In addition, the Authority must consult with the relevant local authority and where a premises is adjudged to be suitable to operate and provide gambling from, that assessment does not supercede the role of the local authority in respect of planning permission (section 97).</p> <p>This provision replaces sections 12 and 13, in Part 3, of the Gaming and Lotteries Act 1956 which enables local authorities to pass resolutions to permit gaming in their areas of administrative responsibility.</p>
<p>15. The Committee recommends that the resolution under Part III of the Gaming and Lotteries Act, 1956 be observed when granting licences to casinos to operate in certain areas.²⁶⁷</p>		<p>Part 3 of the Gaming and Lotteries Act 1956 enables local authorities to pass resolutions to permit gaming in their areas of administrative responsibility. However the provisions of the 1956 Act are not being used consistently or as a coordinated policy between local authorities regarding gaming and gambling.</p> <p>Section 96 of the Bill provides that an applicant for an in-person gambling licence must provide detailed information about the premises from which they intend to operate from. This information will allow the Authority to assess whether a premises is appropriate to provide gambling activities from. Furthermore it will assist the Authority with its enforcement responsibilities when carrying out inspections or enforcement activities.</p>

²⁶⁶ Additional considerations are present here in that the role envisaged for local authorities under the Bill is different to that afforded to them under the *1956 Act, as amended*. **Section 96** requires the Authority to consult with the relevant local authority before making a decision regarding the suitability of a proposed premises from which to offer gambling activities.

²⁶⁷ Ibid.

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<p>In determining the suitability of a premises to provide gambling activities, the Authority must consider the proximity of the premises to schools and if gambling is offered elsewhere in the area. In addition, section 97 of the Bill provides that the Authority must consult with the relevant local authority and where a premises is adjudged to be suitable to operate from. That assessment does not surpass the role of the local authority in respect of planning permission.</p> <p>This approach will replace the resolution making power in Part 3 of the Gaming and Lotteries Act 1956.</p>
<p>16. The Committee recommends that operators should be liable to dependents and creditors of gamblers, where they know, or ought to know, that gamblers are making losses beyond their means and that this should be established in legislation.</p>		<p>It is not possible to implement this recommendation from a practical perspective, to do so would require the creation of a hierarchy of persons to be reimbursed. Implementation of the recommendation could be open to abuse (for example a gambling participant could deliberately run up a lower amount in gambling debts to avoid paying off more substantial debts e.g. a mortgage payment). In addition, such a measure would be disproportionate to licensees in compliance with the measures contained in the Bill and would be impractical to investigate and enforce.</p> <p>However, the Bill contains a number of measures to protect people participating in gambling such as:</p> <ul style="list-style-type: none"> • obligations on licensees to train staff to be able to identify excessive and compulsive gambling behaviour according to standards set by the Authority; • obligations on licensees to provide proper and transparent information to customers when opening an account and while participating in gambling activities; • setting limits on the amount of money that may be lodged to a person's account in a particular timeframe; • obligations to refund money where a person closes their account with a licensee;

Commentary as per Committee report	Whether addressed (either in whole or in part) in the Bill	
		<ul style="list-style-type: none"> • information to be provided to people gambling online, while they are playing, to inform them of their winnings and losses; • preventing children from accessing from online gambling; and • the power of the Authority to prescribe certain times / hours when in-person licensees may operate and times when gambling activities may not be provided by a licensee, on-line, via websites or apps, or by remote means. <p>In addition, section 162 of the Bill provides that the Authority may make regulations to set limits on the amount of money that may be lodged to a person's account generally and also limits on the amount of money that may be lodged to a person's account with a licensee within in a particular timeframe.</p>

Principal Provisions of the Bill

The Bill is divided into 9 Parts -

Part 1: Preliminary and General

Part 2: Gambling Regulatory Authority of Ireland

Part 3: Provisions Applicable to the Authority, Appeals Panel and Adjudication Officers

Part 4: Prohibitions and Offences

Part 5: Licensing of Gambling Activities

Part 6: Obligations on Licensees and Other Persons

Part 7: Complaints

Part 8: Compliance with and Enforcement of Relevant Obligations of Licensees

Part 9: Appeals

Part 2: Gambling Regulatory Authority of Ireland

The primary purpose of the Bill is the establishment the Gambling Regulatory Authority of Ireland ("GRAI" or the "Authority"), an independent body equipped to enforce regulation of the gambling sector.

Appointment of a CEO to GRAI

On 8 September 2022, the Minister of State with responsibility for Law Reform, James Browne TD, announced the appointment of Anne Marie Caulfield as the new Chief Executive Officer Designate of the GRAI.²⁶⁸ Speaking about the appointment of the CEO Designate, Minister Browne stated:

"The early appointment of the CEO Designate will bring the benefit of continuity and leadership for the new Authority in its formative stages through to its formal establishment and commencement of its regulatory functions next year."²⁶⁹

Minister Browne has noted that Ms Caulfield is already working closely with his Department to identify staffing and resourcing needs and to develop procedures for how the Authority will function once operational.²⁷⁰

Oversight team

The Department of Justice has also established a Programme Board to oversee the process of establishing the GRAI, and to ensure that preparations for the new body continue in parallel with legislation. This work, along with the early appointment of a CEO designate, is aimed at minimising the time between the enactment of the legislation and the date on which the regulator starts its operations.²⁷¹

Chief executive

The Bill sets out the appointment process for the Authority's chief executive (**section 20**). The chief executive is tasked with managing and controlling the administration of the Authority (**section 21**), and may make relevant proposals to, and provide certain information to, the Authority. The chief executive may delegate their functions, with the consent of the authority (**section 22**). The chief executive is accountable to the Public Accounts Committee (**section 23**) and other Oireachtas Committees (**section 24**).

Composition of GRAI and appointment of Members

Section 13 of the Bill provides that the Authority shall have **seven members**. There shall be one appointed chairperson and there shall be no fewer than three members who are women and three members who are men.

Section 15 sets out the procedure for the appointment of members of the Authority. Seven members shall be appointed by the Minister, as recommended to him/her by the Public Appointments Service (PAS). PAS shall undertake the candidate selection process, initiated on the request of the Minister, and the selection criteria and procedures shall be agreed between PAS and the Minister.

²⁶⁸ 'Minister Browne announces appointment of new CEO Designate of the Gambling Regulatory Authority of Ireland' (8 September 2022) available [here](#) [last accessed 5 December 2022]. See also 'Gambling Regulatory Authority of Ireland (GRAI): The appointment of the CEO Designate', A&L Goodbody, 9 September 2022; 'Ireland announces the appointment of the new CEO Designate of the Gambling Regulatory Authority of Ireland', McCann FitzGerald, 8 September 2022

²⁶⁹ 'Minister Browne announces appointment of new CEO Designate of the Gambling Regulatory Authority of Ireland' (8 September 2022) available [here](#) [last accessed 5 December 2022].

²⁷⁰ *Ibid.*

²⁷¹ *Ibid.*

It will be desirable that members of the Authority have relevant knowledge and training in certain matters, including:

- legal or compliance functions in a regulated profession or industry,
- gambling activities,
- consumer affairs, and
- the treatment of gambling addiction.

This reflects the opinion of stakeholders that the membership should include a sufficient range of expertise.

Section 16 sets out the terms and conditions of membership of the Authority. A member shall hold office for a period of 4 years from the date of their appointment. Three members, chosen by drawing lots, shall hold office for a period of 3 years. Members whose term of office expires with the passage of time may be reappointed.

The Authority has the power to appoint consultants and advisors and may enter into contracts (**section 17**).

Section 18 provides for the procedures of the Authority, including the holding of meetings. The dates shall be fixed by the chairperson, the quorum for a meeting shall be 4 and each member present shall have a vote. The Authority may establish one or more committees, which will determine their own processes (**section 19**).

Functions of GRAI

Section 14 sets out the general functions of the Authority and enumerates 17 of these functions. The primary functions of GRAI are:

- Licensing, supervising and controlling gambling in the State
- Establishing and maintaining
 - a register of gambling licensees and
 - a National Gambling Register
- Establishing and maintaining a Social Impact Fund
- Establishing standards for gambling products and services
- Imposing obligations on licensees and others in relation to advertising and branded merchandise
- Imposing obligations on licensees and others not to employ a child in gambling related activities unless the activities are for a charitable or philanthropic purpose
- Imposing obligations on licensees in relation to protection of children, promotion of gambling, training staff, notification of specific gambling patterns
- Enforcement and monitoring functions
- Dealing with complaints
- Enhancing public awareness in respect of the licensing and regulation of gambling activities
- Engaging in information sharing and research regarding gambling
- Conducting periodic reviews and reporting to the Minister

The Bill further provides for the making of an Annual Report by the Authority (**section 28**), the keeping of annual accounts (**section 27**), the conduct of research by the Authority (the list of topics that may be researched by the Authority is set out in **section 31**), a strategy statement (**section 29**), and the preparation of codes of practice (**section 30**).

Section 32 provides for the review of the operation of the Act by the Authority, which shall also monitor national and international developments relating to gambling.

The Bill's Explanatory Memorandum notes that the Authority will be a competent authority for the purposes of the [Criminal Justice \(Money Laundering and Terrorist Financing\) Act 2010](#) in respect of licensees under the Authority's remit. Competent authorities are equivalent to a 'self-regulatory body' in EU law; they monitor designated persons and secure compliance with legislative requirements. The Authority is designated a competent authority in section 14(1)(m).

Funding

Section 36 provides for the power of the Authority to charge fees. The Authority shall, with the consent of the Minister, prescribe the fees payable—

- (a) on making an **application for a gambling licence** or for renewal of a gambling licence under Part 5,
- (b) on making an application for **certification** under section 119 of a gambling product or a gambling related service, and
- (c) on the bringing of **an appeal** to the Appeals Panel under Part 9.

The Authority will be funded by the Exchequer for up to the first three years following the establishment of the new body. Thereafter, it is anticipated that the Authority will be self-funding by way of the imposition of a charge on licensees.

The Bill's Explanatory Memorandum notes the following in relation to the financial implications of the Bill:

"Provisions in respect of the funding of the Authority are set out in Chapter 2. It is intended that the Authority will become self-funding over time, through the imposition of a charge on gambling licensees. However, for the initial period of set-up and a number of years following establishment, the Authority will require funding from the Exchequer."²⁷²

National Gambling Exclusion Register

Chapter 3 of Part 2 of the Bill provides for a National Gambling Exclusion Register (the "Register"), which will allow account holders to register with the Authority to exclude themselves from gambling online with licensees. "Account-holders" for the purposes of this section are people who hold a gambling account with a Business to Consumer licensee. Sections 44 to 47 of the Bill provide for the following:

Section 44 - National Gambling Exclusion Register

The Authority shall, as soon as practicable, establish a National Gambling Exclusion Register. The Register shall

- (a) contain information on account-holders who have excluded themselves from gambling
- (b) enable licensees to view, in real time, the information contained in the Register which affects the licensee concerned, and

²⁷² Explanatory Memorandum, at p. 16, available [here](#) [last accessed 5 December 2022].

(c) enable an account-holder to view the information contained in the Register which relates to himself or herself.

An account holder may make an application to the Authority to be included on the Register and thus be excluded from gambling activities of a specified nature for a particular time. The suspension may be indefinite.

Following a person's inclusion on the register, each licensee notified by the Authority of this inclusion shall refund any money in the account-holder's gambling account with the licensee to the account-holder within 7 days from the date specified in the notice. Failure to refund this money shall be an offence.

Section 45 provides that a licensee may not allow a person on the Register to gamble, accept a payment for gambling from a person on the Register, or communicate with a person on the Register in a manner that would encourage them to gamble or that promotes gambling. Section 45(3) provides for an offence where a licensee does any of those activities.

Relevant exclusion periods are set out in section 46, which provides that account holders may be excluded for a period specified in their application, including exclusion for an indefinite period. After a 12-month period, a person may apply in writing to limit an indefinite exclusion to a specific period of time. Section 47 provides for the removal of an account holder from the Register.

A licensee convicted of an offence under this Part shall be liable on summary conviction to a penalty of up to 12 months' imprisonment and to a class A fine or to both, and on conviction on indictment to a penalty of up to 5 years' imprisonment and/or a fine at the discretion of the courts.

Comment

The Irish Bookmakers Association (IBA) currently operates a self-exclusion process for customers who have issues controlling their gambling. This is part of the IBA's [Safer Gambling Code](#).²⁷³ It operates in relation to both on-site and online gambling. The Safer Gambling Code indicates that

"The most effective system of self-exclusion is a localised one where the self-excluded person excludes from shops where the customer has been a regular attendee and is known to staff."²⁷⁴

A significant majority of the submissions received by the Joint Committee concerning the General Scheme of the Bill were very supportive of the establishment of an exclusionary register. A number of submissions also requested that the Register be developed in consultation with their sector. The IBA, for example, indicated that they have "vast experience using GamStop"²⁷⁵ and could be of assistance in providing guidance as to the pros and cons of the system.

²⁷³ IBA, 'Safer Gambling Code' (September 2021) available [here](#) [last accessed 5 December 2022].

²⁷⁴ *Ibid*, at p. 6.

²⁷⁵ The IBA stated: "[w]e believe it would be very important that the regulator has the freedom to choose whether they want to build and operate such a database, or whether they should outsource to a suitable alternative and manage accordingly." See IBA submission to PLS of General Scheme of Bill, at pp 2 and 22, appended to PLS Report, available [here](#) last accessed 16 November 2022).

However, industry stakeholders have suggested that if the Register is to be operated entirely by the Authority, this could create a large administrative burden on the Authority.²⁷⁶ It was suggested in a number of submissions there may be other methods of achieving the same aim and that being prescriptive may impose operational challenges on the Authority from the outset.²⁷⁷

The Joint Committee's PLS Report recommended that GAMSTOP,²⁷⁸ the self-exclusion database preventing access to online operators in the UK, could extend its services to Ireland, to address the lack of such a self-exclusion database for online operators in the Irish market.²⁷⁹ It has been noted by the Department that the system established in the Bill operates in a similar manner to the GAMSTOP system.

Social Impact Fund

Chapter 4 of Part 2 of the Bill provides for the establishment and management of a Social Impact Fund (the "Fund"). **Sections 49 to 55 set** out the establishment and operation of the Fund.

The [2019 IDWG Report](#) supported the establishment of such a fund, with a purpose of promoting socially responsible gambling and assisting in counteracting the ill effects for players, their families and society, of irresponsible gambling.

The Fund is to be established and maintained by the Authority (**section 49**). **Section 50** sets out the purposes for which payments may be made out of the Fund. These include:

- (a) **research, training, community interventions** and other initiatives aimed at reducing or eliminating compulsive or excessive gambling and the social impact of compulsive or excessive gambling;
- (b) **public education and awareness-raising** measures for the purposes of—
 - (i) highlighting the social impact of compulsive or excessive gambling, or
 - (ii) informing the public about the resources available to address compulsive or excessive gambling;
- (c) the provision of services—
 - (i) for the **treatment of participants** engaged in compulsive or excessive gambling, and
 - (ii) to other persons affected by compulsive or excessive gambling;

²⁷⁶ PLS Report, at p. 34, available [here](#) (last accessed 16 November 2022).

²⁷⁷ *Ibid.*

²⁷⁸ GAMSTOP is a free service available to all consumers resident within the United Kingdom. Users choose to exclude themselves from all online gambling sites licensed in Great Britain for a specified period and, once that minimum period has elapsed, they remain self-excluded unless they return to GAMSTOP to ask to be removed and successfully complete the process to end their self-exclusion. Anyone who is identified as having an active self-exclusion on GAMSTOP is immediately blocked from being able to gamble by the operator. See: '[GamStop Annual Report 2021](#)', (31 December 2021) (last accessed 5 December 2022).

²⁷⁹ See e.g., Entain submission to PLS, at p. 18, appended to PLS Report, available [here](#) (last accessed 5 December 2022). Entain stated: "In our view the proposal that the Authority itself should run an exclusionary scheme is unnecessary and would be a diversion from its considerable core responsibilities. Instead, we propose that the very successful UK scheme run in association with GamStop, should, if GamStop agrees, be extended to the State".

(d) cooperation with persons outside the State in **research and training** which will benefit persons in the State by reducing or eliminating compulsive or excessive gambling and the social impact of compulsive or excessive gambling; and

(e) **projects, programmes or initiatives** which are compatible with the purposes referred to in paragraphs (a) to (d).

Funding

The Fund will be funded by mandatory contributions, calculated annually on each licensee's turnover. Contributions will not be levied on charitable/philanthropic licensees.

The Bill has removed certain provisions that had received criticism from stakeholders when reviewing the General Scheme of the Bill. These include the removal of the powers of the Exchequer to borrow unspecified amounts from the Fund and the return to the Exchequer of a "surplus" from the Fund. It was strongly recommended that the funds be ringfenced for problem gambling related issues and that any surplus should also be used for this purpose.²⁸⁰

Section 51 of the Bill provides that the Minister may authorise the payment of money to the Authority from the Fund. This shall be an amount that is necessary for the purpose of defraying, in whole or in part, the expenses incurred by the Authority in connection with the administration of the Fund.

Section 52 provides for the funding of the Fund. A licensee (other than a charitable or philanthropic licensee) shall pay an annual contribution to the Authority in respect of the Fund. The contribution payable by a licensee to the Fund shall be determined by the Authority in accordance with regulations made by the Minister. Subsection (3) provides that the Minister shall make regulations in relation to the contributions payable by licensees.

Comment

Stakeholders during the PLS process were very supportive of the establishment of the Fund. In addition, they made a number of recommendations, including:

- that any levy is placed on a statutory footing,
- that a consultation process is delivered by the new Authority in assessing the relevant contributions, and
- that annual reporting on how and where the funds contributed is used.²⁸¹

Some proposed purposes of the Fund include:

- to establish a national network of gambling treatment and support services;
- reducing the need for gambling treatment and support services by ensuring prevention of gambling harms is at its core;

²⁸⁰ Joint Committee on Justice Report on Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill' (May 2022) See stakeholders' submissions appended to PLS Report", available [here](#) (last accessed 5 December 2022).

²⁸¹ Submissions for pre-legislative scrutiny of the General Scheme of the Bill by: Institute of Public Health, (IPH), Lottoland, and Flutter Entertainment plc., as published in Joint Committee on Justice Report on Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill' (May 2022) See stakeholders' submissions appended to PLS Report", available [here](#) (last accessed 5 December 2022).

- addressing societal harm from gambling;
- supporting data collection, analysis and monitoring the impact of the changing gambling environment on gambling behaviours;
- the creation of an Irish gambling prevalence report;
- funding research units to guide evidence-based policy and funding national education and awareness programmes to counteract gambling harm; and
- funding research units to guide evidence-based policy and funding national education and awareness programmes to counteract gambling harm.²⁸²

Part 3: Provisions Applicable to the Authority, Appeals Panel and Adjudication Officers

Part 3 of the Bill provides for the criteria for becoming, or being disqualified as

- a member of a relevant office (“relevant office” means the Authority and the Appeals Panel);
- an adjudication officer; or
- as the chief executive.

It also provides for the removal of a member of a relevant office. **Chapters 6 and 7 of Part 8** of the Bill (see the section below) set out the relevant provisions on the role of an adjudication officer, who is tasked with considering matters referred to them by the Authority following a directed investigation.

Section 57 sets out nine circumstances in which a person may be ineligible to become, or may be disqualified as, a member of a relevant office or adjudication officer, including, *inter alia*, being adjudicated bankrupt, convicted on indictment of an offence, or convicted of an offence involving fraud and dishonesty.

Section 58 provides that a person shall cease to be an adjudication officer or chief executive if appointed to various forms of political office, as enumerated in the section. The member of staff shall stand “seconded from that employment”.

Section 58 provides for the removal of a member of a relevant office by the Minister on certain grounds, including a failure to discharge the duties of the office, stated misbehaviour or ill health.

Section 61 provides for an offence of providing false or misleading information to a member of a relevant office or adjudication officer. A person guilty of an offence under this section is liable

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 2 years, or both, or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years, or both.

²⁸² Submissions for pre-legislative scrutiny of the General Scheme of the Bill by: Institute of Public Health, (IPH). The first proposal was made in multiple submissions. Submissions as published in Joint Committee on Justice Report on Pre-Legislative Scrutiny of the General Scheme of the Gambling Regulation Bill’ (May 2022) (“PLS Report”) available [here](#) (last accessed 16 November 2022).

Finally, **Part 3** provides for the non-disclosure of confidential information (**section 60**) and the restriction of rights and obligations under the General Data Protection Regulation (**sections 62 and 63**).

Parts Four-Five: Reform and Modernisation of the Licencing Regime

Parts Four to Five address a core impetus for the Bill, namely, the need to reform and modernise the licencing regime for gambling activities in Ireland. They require that all applications for gambling licences under the Bill, once enacted, be submitted to the new Authority thereby providing for a more coherent and less administratively demanding system. Further to a recommendation of the IDWG, they provide for new Business to Consumer and Business to Business gambling licences²⁸³ as well as gambling licences for a charitable or philanthropic purpose. The Bill provides for combined Business to Consumer gambling licences, which permit licensees to provide gambling activities both in person *and* by remote means.

As discussed previously, under the existing licencing regime, Tote Ireland Limited and Greyhound Racing Ireland have been afforded licenses to provide pool betting services at horse and greyhound racing tracks respectively. Alan Heuston, a partner at McCann Fitzgerald law firm, observes that “[t]here is no equivalent in Ireland to the types of pool betting licences (non-remote and remote pool betting licences) that are issued in other jurisdictions that operators use to provide pool betting or fantasy sports products”.²⁸⁴ Notably, the Bill allows for appropriately licenced bookmakers to offer pool betting services, both in person and remotely. Pool betting is defined under section 2(2) as betting “made on terms that all or part of the winnings are; (a) determined by reference to the aggregate of bets paid in respect of an event, and (b) divided among the persons who win the bet on the event.”

In accordance with recommendations made by the IDWG and multiple stakeholders, Parts Four and Five of the Bill afford the Authority extensive enforcement powers and provide for robust sanctions where the licencing regime is breached.²⁸⁵ They create multiple new offences surrounding licencing, which in the main may be prosecuted either as summary offences or as indictable offences. The latter are punishable by a fine and/or imprisonment for up to five years or up to eight years depending on the severity of the offence.

The Bill authorises the new Authority to make regulations concerning various aspects of the new licencing regime. As noted previously, the Authority is authorised under **section 36**, with the consent of the Minister for Justice, to prescribe the fees payable on making an application for a gambling licence or for the renewal of a gambling licence under **Part Five**. This is a significant power given that licensing fees have the potential to generate considerable revenues, as discussed previously.

²⁸³ IDWG, ‘Report to Government’ (March 2019) at p. 6, available [here](#) (last accessed 18 November 2022).

²⁸⁴ ICLG, *Gambling 2022* (8th edn, ICLG 2022) at p. 110, available to access [here](#) (last accessed 18 November 2022).

²⁸⁵ See, e.g., IDWG, ‘Report to Government’ (March 2019) at pp 27, 29, 40 and 116, available [here](#) (last accessed 18 November 2022); and PLS Report, at p. 33, available [here](#) (last accessed 16 November 2022).

Part Four: Prohibitions and Offences

Part Four of the Bill is comprised of three chapters and 15 sections.

Chapter One of Part Four outlines certain gambling-related activities, which are prohibited under the Bill and provides for corresponding offences where these prohibitions are breached.

Section 65 prohibits a person from providing, or causing another person to provide, a betting activity, game or lottery unless:

- they have the applicable licence;
- the betting activity, game or lottery concerned is permitted under that licence; and
- the betting activity, game or lottery is provided in-person or by remote means in accordance with the terms of the relevant licence.

Section 65(3)(a)(iii) allows for an exception where the activity provided is a type of lottery for which no gambling licence is required in accordance with Chapter 3 of Part 5 of the Bill. Section 65(4) provides that a person who contravenes section 65 commits an offence, which is punishable: on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to eight years.

Section 68 prohibits betting intermediaries from offering their services in-person and from offering their services remotely without the relevant remote betting intermediary licence. Section 68(2) provides that a person who contravenes section 68 commits an offence, which is punishable: on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 69(1) prohibits the sale or supply, either directly or indirectly, of gambling products and/or gambling related services otherwise than in accordance with the terms of a Business to Business gambling licence.²⁸⁶ Section 69 provides that section 69(1) shall not apply to persons to whom the following provisions apply:

- i. section 71, which permits the holder of a gambling licence other than a Business to Business gambling licence to manufacture, adapt, install, maintain or upgrade software used in the provision of gambling activities permitted under their gambling licence; and
- ii. section 120, a transitional provision that permits a person who, immediately prior to the section's entry into force, sold and/or supplied a gambling product or a gambling related service, to apply within 6 months of the section's entry into force or such longer period as the Minister may specify, for a Business to Business gambling licence.²⁸⁷

²⁸⁶ Section 88 of the Bill provides for a new Business to Business gambling licence, which authorises the holder to sell or supply, either directly or indirectly, certain gambling products and/or gambling related services, as specified under the terms of the licence, to another licensee in the State or to a person outside the state.

²⁸⁷ The exemption lasts for this 6-month period or such longer period as the Minister may specify; OR, where an application is made, until such a time as the Authority notifies the applicant in writing of its decision to either grant or refuse the licence.

Section 69(3) provides that a person who contravenes section 69 commits an offence, which is punishable: on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to 5 years.

Section 70(1) prohibits a licensee from purchasing gambling products and/or gambling related services, as defined under the Act, from a person other than a holder of a Business to Business licence and otherwise than in accordance with the terms of that licence. Section 70(3) prohibits individuals who do not hold a gambling licence from purchasing gambling products and/or gambling related services. Section 70(2) and (4) allow for exceptions where the buyer had already entered into a legally binding contract to purchase a gambling product and/or gambling related service prior to the entry into force of the section. Section 70(5) provides that a person who contravenes section 70 shall be guilty of an offence, which is punishable: on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to 5 years.

Section 72 provides that a gambling licence cannot be transferred,²⁸⁸ assigned, mortgaged or subjected to a charge or other encumbrance. It stipulates that an attempt to subject a gambling licence to any such encumbrance shall be void and of no effect. If licences could be readily transferred and/or subjected to encumbrances this safeguard in the application process would be undermined.

Section 73 provides for a new offence of cheating at gambling or gambling activity where “cheating” may “consist of interfering with or manipulating—

- (a) the process by which gambling is conducted or a gambling activity is provided,
- (b) a gambling product or gambling related service,
- (c) an event to which gambling relates, or
- (d) the outcome of a gambling activity.”

Section 73(2) provides that a person may be guilty of an offence under this section regardless of whether or not they make a gain or improve their chances of making a gain. This new offence appears to be aimed at addressing concerns raised by actors including the IDWG regarding betting-related manipulation of sporting activities.²⁸⁹ Sections 73(4) and (5) provide that a person who commits an offence under this section is liable on summary conviction to a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment, to a fine and/or imprisonment for up to 5 years.

Chapter Two of Part Four concerns applications to Court in respect of persons providing a gambling activity in contravention of Chapter One.

²⁸⁸ However, note that section 103 of the Bill permits applications seeking the transfer of a gambling licence held in the sole name of a licensee who is an individual in certain exceptional circumstances, as discussed below.

²⁸⁹ IDWG, ‘Report to Government’ (March 2019) at chapter 5, available to download [here](#) (last accessed 18 November 2022).

Section 74 empowers the Authority to apply to the High Court for several orders where it has reasonable grounds to believe that a person is providing a gambling activity, which is prohibited under Chapter One. Under section 74(1)(a), the Authority may apply to the High Court for an order directing the relevant person to cease providing the prohibited gambling activity. Under section 74(1)(b), the Authority may also apply to the High Court for one or more orders provided for under section 74(2), including orders directing:

- a) an internet service provider or a provider of an application store service to block access to the prohibited gambling activity provided by the relevant person;
- b) a bank inside or outside the State not to receive any payment into a bank account of the relevant person in relation to the prohibited gambling activity without leave of the Court;
- c) a bank inside or outside the State not to make any payment out of a bank account of the relevant person without leave of the Court;
- d) the relevant person not to dispose of, direct or facilitate the disposal of, any of their assets without leave of the Court;
- e) the relevant person not to reduce their assets below a specified amount or value without leave of the Court;
- f) the relevant person not to remove their assets without leave of the Court;
- g) the relevant person to refund a payment made to them in respect of a prohibited gambling activity to the payor; and
- h) the relevant person to surrender to the Authority any gambling product used in providing the prohibited gambling activity.

Section 74(5) clarifies that the orders included in sections 74(2)(c), (d), (e) and (f) may only be made where the High Court is satisfied that they are necessary to provide a “refund” under subsection 2(g). This is a noteworthy proviso given that the orders provided for in sections 74(2)(c), (d), (e) and (f) impact upon the relevant person’s use and enjoyment of their assets.

Under section 74(6), the High Court may make any other orders it considers appropriate in connection with a hearing regarding an application for the cessation of an alleged prohibited gambling activity. Section 74(7) permits the High Court to make the following orders:

- a) an order directing a bank inside or outside the State to furnish any information in its possession relating to the financial affairs of a relevant person; and
- b) an order directing a relevant person or, where the relevant person is a body corporate, a relevant officer and/or beneficial owner, to swear an affidavit disclosing information relating to assets held in the name of the relevant person/body corporate or held jointly with third parties.

Under section 74(8), if the High Court is satisfied that there is reason to believe that a person holds or held assets on behalf of a relevant person, it may order that person to disclose all information regarding those assets. Upon the application of an affected person, the High Court may grant orders concerning assets where it is satisfied that it is necessary to enable the applicant to:

- discharge reasonable living and other necessary expenses incurred by themselves or any dependent person, including fees and costs payable in respect of legal advice or legal representation for the purposes of proceedings under the Act; or
- carry on a business, trade, profession or other occupation to which the asset relates.

Section 74(13) permits the High Court to hold all or part of the proceedings in private where it considers that special circumstances exist necessitating a private hearing. This is notable given that [Article 34\(1\) of the 1937 Constitution of Ireland](#) requires that court proceedings take place in public ‘save in such special and limited cases as may be prescribed by law’.

Section 74(14) permits the Authority to apply for a temporary order under section 74(1) on an *ex parte* basis where it considers there is an urgent need to act, including where it considers that urgent action is required to protect the public from the serious consequences of a prohibited gambling activity being provided. An *ex parte* application is made without the other side being notified in advance, and without their being present or legally represented at the relevant hearing.

Chapter Three of Part Four contains general provisions related to offences.

Section 75 provides for corporate liability. It stipulates that where an offence under the Act is committed by a person with the consent or connivance of an officer or beneficial owner of that person, or in circumstances where the offence is attributable to the wilful neglect of that person or beneficial owner, then that officer or beneficial owner, as the case may be, is also guilty of the offence and may be held criminally accountable as if he or she were guilty of the first-mentioned offence. Definitions are included in section 2 of the Bill for “relevant officer”²⁹⁰ and “beneficial owner”.²⁹¹ However, the Bill doesn’t include a definition of what constitutes a “person” for the purposes of section 75. This could give rise to issues surrounding clarity.

Sections 76 and 77 provide that summary proceedings for an offence under the Act may be brought and prosecuted by the Authority provided that they are instituted within 3 years of the date of the alleged offence.

Section 78 concerns extraterritorial jurisdiction. It provides that where a person engages in conduct in a place outside the State which would, if it occurred in the State, constitute an offence

²⁹⁰ Section 2 of provides that “‘relevant officer’ means—

(a) in relation to a body corporate—

(i) a person who exercises control (within the meaning of section 11 or 432 of the Act of 1997) in relation to the body,

(ii) a director, manager, secretary or other officer of the body,

(iii) a member of the board (including the chairperson) of the body,

(iv) the chief executive officer, managing director or any other person acting in such capacity (by whatever named called) of the body,

(v) a person who purports to act in a capacity referred to in any of *subparagraphs (ii) to (iv)*, and

(b) in relation to a body corporate not established in the State, a person who—

(i) holds an office or position equivalent to any office or position referred to in *subparagraphs (i) to (iv) of paragraph (a)*, or (ii) purports to act in a capacity of a person who holds such an office or position”.

²⁹¹ Section 2 provides that “beneficial owner” has the meaning afforded to it by Article 3 of [Directive \(EU\) 2015/849](#) of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Article 3(6) of the Directive provides that ‘beneficial owner’ means “any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted”. It lists natural persons who are included within this definition in the case of corporate entities and in the case of trusts.

under the Act, or an offence of inciting, aiding and abetting, or attempting the commission of an offence under the Act, then that person may still be prosecuted for the offence in the State where:

- (i) the conduct took place on board an Irish ship or on an aircraft registered in the State; or
- (ii) the conduct constitutes an offence under the law of the place where it occurred and the person is an Irish citizen, ordinarily resident in the State, or a body corporate established under the law of the State.

Section 78(9) indicates that the exercise of extraterritorial jurisdiction is subject to the double jeopardy principle. It provides that where a person has been acquitted or convicted of an offence in a place other than the State, then they shall not be proceeded against for an offence under this section consisting of the conduct, or substantially the same conduct, that constituted the offence for which they were acquitted or convicted in the other place.

Section 79 provides that, in addition to any penalty the court may impose, a person convicted of an offence under the Act shall bear the costs and expenses incurred by the Authority in relation to the investigation, detection and prosecution of the offence unless the court is satisfied that there are special and substantial reasons for them not to do so. The alleviation of this financial burden should assist the Authority in its journey to becoming self-financing, as anticipated under the RIA.

Section 80 provides that where a licensee is convicted of an offence under the Act, the court may, having had regard to the nature of the offence and the circumstances in which it was committed, order that the gambling licence to which the conviction relates be revoked entirely or suspended for a specified period. Where the offence is sufficiently serious, the court may also suspend or revoke any other gambling licence held by the licensee.

Part Five: Licensing of Gambling Activities

Part Five is one of the most substantive parts of the Bill with nine chapters and 55 sections.

Chapter One of Part Five contains preliminary and general provisions.

Section 81 indicates that in respect of each relevant gambling activity,²⁹² the amount of the “maximum relevant payment and maximum winnings” shall be that specified in the applicable column contained in Schedule Three to the Bill. The Bill also clarifies the maximum payments and winnings applicable for small stakes lotteries conducted for a charitable or philanthropic purpose or in connection with the selling or marketing of a particular product, which are exempted from the requirement to obtain a gambling licence.

²⁹² The term “relevant gambling activity” is used frequently throughout the Bill typically to refer to betting activities, games, lotteries and gambling activities for a charitable or philanthropic purpose, which are provided pursuant to a gambling licence provided for under the Bill.

Table 11: Maximum Payments and Winnings under the Bill²⁹³

Description	Maximum Payment	Maximum winnings
Relevant game	€10	€3,000
Relevant lottery (other than once-off)	€10	€5,000 per week
Relevant lottery: once-off	€10	€360,000
Gambling licence for charitable or philanthropic purpose	€10	lottery: €30,000 per week game: €3,000 per game
Gambling licence for charitable or philanthropic purpose: once-off activity	lottery: €10 game: €10 betting: €10	lottery: €360,000 game: €360,000 betting: €360,000
Lottery held in conjunction with the selling or marketing of a particular product that is exempted from requirement for licence	No charge other than purchase of product concerned, if required	€5,000
Lottery for charitable or philanthropic purpose that is exempted from requirement for licence	€5	€2,000

By way of comparison, Table 12 below outlines the existing maximum payments and winnings for games and lotteries conducted pursuant to the *1956 Act, as amended*.

Table 12: Maximum Payments and Maximum Winnings under *1956 Act, as amended*²⁹⁴

Description	Maximum Payment	Maximum winnings
Game offered pursuant to a gaming permit	€10	€3,000
Game offered pursuant to a gaming licence	€5	€500
Lottery offered pursuant to a lottery permit	€10	€5,000 per lottery or where more than one lottery per week, €5,000 per week.
Periodic lottery offered pursuant to a lottery licence.	Unclear	€360,000 per year or €30,000 per week
Lottery held in conjunction with the selling or marketing of a particular product	No charge other than purchase of product, if required	€2,500
Lottery for charitable or philanthropic purpose exempted from requirement for licence	€5	€1,000

²⁹³ This table is derived from information contained in Schedule Three and sections 90-91 of the Bill.

²⁹⁴ This table was prepared using information contained in *the 1956 Act, as amended*.

Section 82(2) empowers the Authority, subject to the Minister's consent, to adopt regulations varying the "maximum relevant payment and maximum winnings" for relevant gambling activities. As a safeguard, when so doing, the Authority must have regard to the number of gaming and lottery licences already in force, the impact of gambling activities on society in general, and the potential impact of any variation on gambling activities generally.

Chapter Two of Part Five provides for new types of gambling licences. **Section 83** authorises the Authority to issue Business to Consumer gambling licences, gambling licences for a charitable or philanthropic purpose, and Business to Business gambling licences, in accordance with the requirements of Chapters 6, 7 and 8 respectively.

Section 84 permits the Authority to issue the following types of betting licence:

- (1) an ***in-person betting licence*** authorising the licensee to:
 - a) provide the following betting activities from one or more premises in the State:
 - i. acting, or offering to act, as a bookmaker,
 - ii. offering to take a bet,
 - iii. advertising betting, or
 - iv. causing another person to do any of the above activities; and
 - b) in the case of pool betting, for an event, a series of events or a class of events;
- (2) a ***remote betting licence*** authorising the licensee to provide the same betting activities as a licensee of an in-person betting licence, albeit remotely as opposed to in person;
- (3) an ***in-person and remote betting licence*** authorising the licensee to provide the same betting activities as a licensee of both an in-person betting licence and a remote betting licence; and
- (4) a ***remote betting intermediary licence*** authorising the licensee to engage in the following betting activities other than pool betting:
 - i. acting, or offering to act, as a remote betting intermediary,
 - ii. advertising betting, or
 - iii. causing another person to do any of the above activities.

Section 2 defines "remote means" as "any means by which a person can participate in gambling otherwise than in-person including by using— (a) the internet, (b) a telephone, or (c) a television". This definition reflects recent technological developments, including the introduction of smart TVs and the decline in use of telegraphy.

Sections 85(3) and **86(3)**, concerning gaming licences and lottery licences respectively, permit the Authority to issue in-person gaming licences and in-person lottery licences, remote gaming licences and remote lottery licences, and combined in-person and remote gaming licences and combined in-person and remote lottery licences. **Sections 85(1)** and **86(1)** authorise the Authority to prescribe lists of the games and lottery products and activities that may be provided pursuant to gaming and lottery licences.

Section 87 permits the Authority to issue a gambling licence for a charitable or philanthropic purpose authorising the licensee to provide a game, a lottery activity or product, or a betting activity (other than acting as a remote betting intermediary) in person and/or by remote means. Section 87(4) outlines goals that could amount to a charitable or philanthropic purpose including:

- (a) the prevention or relief of poverty or economic hardship;
- (b) the advancement of education or religion; or

(c) any other purpose of benefit to the community.²⁹⁵

Section 88 provides for a new Business to Business gambling licence. Subject to section 119, the Authority may issue a Business to Business gambling licence authorising the licensee to:

- a) sell or supply, directly or indirectly, a gambling product or a gambling related service, or both, to another licensee in the State or to a person outside the State, and
- b) advertise a relevant gambling product or relevant gambling related service, which the licensee is entitled to sell or supply in accordance with paragraph (a).

Section 89 requires the Authority to establish and maintain a register of gambling licences. In this regard, it will take over roles currently discharged by a panoply of actors thereby enhancing the coherence of the overall system.²⁹⁶ Pursuant to the IDWG's recommendation that the beneficial ownership of all gambling operations be clearly established,²⁹⁷ section 89 requires that, in circumstances where the licensee is a corporate actor, the name of each relevant officer and each beneficial owner of the licensee be provided. In order to enhance transparency, section 89 requires the inclusion in the register of details of:

- a) any conviction of a licensee or a relevant officer of a licensee for an offence under the Act;
- b) any advice, caution, warning or reprimand issued to a licensee, under Chapter 4 of Part 8, in respect of a contravention of a relevant obligation by the licensee;
- c) any condition imposed on the licensee's gambling licence under Part 8 and of the contravention in respect of which the condition was imposed;
- d) any suspension or revocation of the licensee's gambling licence;
- e) any current court order, directing a licensee to cease providing a relevant gambling activity or a relevant gambling product or gambling related service; and
- f) any decision as to contravention and, where applicable, any administrative sanction which has come into effect in accordance with section 196, in respect of a licensee.²⁹⁸

Section 89(5) provides that subject to the requirements of the General Data Protection Regulation and the [Data Protection Act 2018](#), the Authority may, for the purposes of performing its functions, retain for such period as shall be specified in regulations adopted by the Authority certain

²⁹⁵ Section 84(4)(c) includes a non-exhaustive list of purposes that could fall within this category.

²⁹⁶ Presently, the Revenue Commissioners maintains registers containing details of all licenced bookmakers, licenced remote bookmaking operations, and licenced bookmaking offices in accordance with sections 8A and 8B of the *Betting Act, 1931* (inserted [by sections 18-19 of the Betting \(Amendment\) Act 2015](#)). In accordance with [section 19A of the 1956 Act, as amended](#), the Revenue Commissioners also maintains a Register of Gaming Licences outlining the details of all gaming licences it issued under the Act. In accordance with [section 28\(15\)](#), the District Court clerk for a District Court area must maintain a register of all lottery licences issued, revoked or suspended for the District Court area in question. In accordance with [section 9A\(16\)](#) and [section 27B\(15\) of the 1956 Act, as amended](#), every superintendent of AGS is required to maintain registers outlining the details of any gaming and lottery permits they issued, revoked or suspended under the *1956 Act, as amended*.

²⁹⁷ See: IDWG, 'Report to Government' (March 2019) at pp 22 and 64, available to download [here](#) (last accessed 18 November 2022).

²⁹⁸ When entering information regarding a decision as to a contravention, the Authority may redact any particulars which appear to it to be commercially sensitive or to relate to the commission of an offence.

information regarding enforcement action taken against a former licensee. Section 89(7) requires the Authority to make the register of gambling licensees publicly available, free of charge, including via publication on its website, to the exclusion of the information referred to in section 89(5).

Similar to the situation under the existing legislative and regulatory framework as discussed previously, **Chapter Three of Part Five** provides for certain small stakes gambling activities to be exempt from the requirement to hold a gambling licence. **Section 90** provides that lotteries held for a charitable or philanthropic purpose don't require a gambling licence where:

- a. the person holding the lottery derives no personal profit from the lottery,
- b. the total value of the winnings doesn't exceed €2,000,
- c. the minimum payment for a lottery ticket doesn't exceed €5,
- d. the maximum number of tickets available for sale doesn't exceed 1,500, and
- e. the person holding the lottery has not provided a lottery pursuant to this section within the past three months.

These are very similar to the equivalent requirements under the existing legislative and regulatory framework, as discussed previously, except the maximum winnings are higher (€2,000 versus €1,000 under [section 26A\(e\)](#) of the *1956 Act, as amended*). **Section 91** provides that lotteries don't require a gambling licence where:

- (a) they are held in conjunction with the selling or marketing of a product or a service;
- (b) no payment is required to participate in the lottery other than, if required, the purchase of the product or service concerned;
- (c) the total value of the winnings doesn't exceed €5,000 (although the Authority may prescribe a greater amount);
- (d) there is no additional payment required to obtain the winnings; and
- (e) the winnings are paid out within 6 months of the first date on which persons are invited to participate in the lottery concerned.

These requirements are quite similar to the equivalent requirements under [section 27A](#) of the *1956 Act, as amended*. Subsection (e) of section 91 constitutes an additional requirement. Furthermore, [section 27A](#) only allows for an exemption where the lottery is held in conjunction with the selling or marketing of a *product*, as compared with *a product or a service* under section 91 of the Bill. The potential maximum winnings are also higher (€5,000 versus €2,500 under [section 27A](#)).

Chapter Four of Part Five contains general provisions concerning applications for gambling licences.

Section 93 requires applicants to publish a notice of their intention to apply for the licence at least 28 days prior to making the application. Section 94 outlines the information and documentation that must accompany an application, including:

1. the name and residential address of the proposed licensee, the address of their principal office or place of business, and any other trading name they use/intend to use;
2. where applicable, the name and residential address of each relevant officer and each beneficial owner of the proposed licensee ("each relevant officer and each beneficial owner"), and the address of their principal office or place of business;
3. the address for the purpose of service of notices by/under the Act;

4. such financial information as may be specified by the Authority and a business plan;²⁹⁹
5. a declaration signed by the proposed licensee or, where applicable, each relevant officer and each beneficial owner, that they are a fit and proper person to hold the licence;
6. details of any gambling licence held, or previously held, by the proposed licensee and where applicable, each relevant officer and each beneficial owner;
7. the information specified under section 95 regarding previous licences or permits held, refused, suspended or revoked under the legislation, which preceded the Bill;
8. additional information, as specified in section 96, where the application is for a Business to Consumer gambling licence for gambling activities offered from physical premises;
9. additional information and documentation, as specified in section 98, where the application is for a Business to Consumer gambling licence under section 108 or for a gambling licence for a charitable or philanthropic purpose under section 113 and the gambling activity is to be provided by remote means;
10. statements in respect of the proposed licensee and, where applicable, each relevant officer and each beneficial owner as to whether:
 - a. they have ever been convicted for a relevant offence and/or there has been any conviction of a body corporate for a relevant offence where, at the time of the offence, they were a relevant officer or beneficial owner of the body corporate,³⁰⁰
 - b. there are any proceedings pending against them for a relevant offence; and
 - c. there are any proceedings pending against them, or there has been any finding against them, by a regulatory authority, court or tribunal outside the State that they have contravened a legal obligation imposed in a foreign jurisdiction regarding the conduct of gambling activities outside the State;
11. confirmations and details regarding whether the proposed licensee and, where applicable, each relevant officer and beneficial owner has held, been refused or had suspended or revoked (as applicable):
 - a. a pawnbroker's licence under the Pawnbroker's Act 1964,
 - b. a moneylender's licence under the Consumer Credit Act 1995,
 - c. authorisation to carry on business as a trust or company service under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, or
 - d. a certificate of fitness and probity to direct a private members' club or be a beneficial owner of a private member's club at which gambling activities are carried on within the meaning of section 109A(1) of Criminal Justice (Money Laundering and Terrorist Financing) Act;
12. a confirmation that the proposed licensee and, where applicable, each relevant officer and beneficial owner is not an undischarged bankrupt;
13. relevant consents regarding personal data;
14. a tax clearance certificate in force in respect of the proposed licensee and, where applicable, each relevant officer and beneficial owner; and
15. such supporting documentary and other evidence as the Authority may request to

²⁹⁹ Applications for a once-off lottery licence under section 109 or for a gambling licence for a once-off charitable or philanthropic purpose under section 114 are exempt from this requirement.

³⁰⁰ A relevant offence is an offence listed under Schedule 1, which includes an extensive list of offences provided for in multiple pieces of legislation, including the Act.

enable it to verify/consider the information contained in the application.

The list of general information and documentation that applicants must provide is far more extensive than that provided for under existing legislation. In this regard, it may seek to give effect to the IDWG's recommendation that the Bill include measures, which "ensure that it [is] not possible for people with connections to crime to obtain ownership or control of a gambling business".³⁰¹ The requirement for information regarding beneficial ownership where the proposed licensee is a corporate actor reflects the IDWG's recommendation that the beneficial ownership of any company or entity applying for a gambling licence be determined and that no licence be issued without such ownership being established.³⁰² The information required regarding the proposed licensee's finances, business plan and fitness appears to be aimed at ensuring that they have the financial capacity to provide gambling activities and pay debts as they fall due.

Notably, **section 95** requires statements from the proposed licensee and, where applicable, each relevant officer and each beneficial owner, regarding:

- a. any unreasonable refusal to pay sums due or refund deposits to persons who won bets made with them as a licence holder under the *1931 Act, as amended*;
- b. any unreasonable refusal by a body corporate to pay sums due or refund deposits to persons who won bets made with them where the proposed licensee or a relevant officer or beneficial owner of the proposed licensee, was a relevant officer of the body corporate at the time of the refusal.

This provision is an important safeguard for consumers. As noted in the previous discussion concerning the legislative and policy context, whilst gambling debts are not currently enforceable under the existing regulatory framework, an unreasonable refusal to pay winnings due can have serious repercussions for gambling service providers.

Section 96 outlines information that the proposed licensee must provide in order to establish the suitability of a proposed gambling premises, for example, information pertaining to planning permission, ownership, health and safety, and security. It requires that non-gambling areas and features be clearly separated and distinguished from gambling areas. It also requires a confirmation as to whether:

- a certificate of suitability of premises was ever refused under the *1931 Act, as amended*, in respect of the proposed premises and, if so, the reasons for the refusal;
- a court ever directed that the premises be removed from the register of bookmaking offices and, if so, the reasons given for such removal; and
- the proposed licensee or, where applicable, a relevant officer or beneficial owner, has ever been convicted of an offence in relation to the premises while it was included in the register of bookmaking offices under the *1931 Act, as amended*.

³⁰¹ IDWG, 'Report to Government' (March 2019) at p. 64, available to download [here](#) (last accessed 18 November 2022).

³⁰² *Ibid.*, at p. 22.

Section 97 stipulates that when determining the suitability of a proposed premises, the Authority shall also have regard to other factors, including the existence in the vicinity of other premises that offer licenced in-person gambling activities and the proximity of the proposed premises to schools.

The requirements included in sections 96 and 97 may be viewed as safeguards aimed at protecting consumers and vulnerable persons. Interestingly, **section 96** retains a role, albeit altered, for the local authority. It requires the Authority to consult with the relevant local authority before making its decision and cause an inspection to be conducted of the premises concerned. As discussed above, the role afforded to local authorities under the *Gaming and Lotteries Acts* in the granting of gaming licences has been the source of some controversy.³⁰³

Sections 98 and 99 concern additional information that must accompany an application for a licence to provide a gambling activity by remote means, including information regarding how the applicant intends to adhere to any standards adopted by the Authority regarding software. Where an application is made for a Business to Consumer gambling licence, the applicant must include information regarding the software that will be used to enable them to view, in real time, relevant information on the National Gambling Exclusion Register. This is significant as self-exclusion measures was a key theme raised during PLS of the Bill and by the IDWG.³⁰⁴

Section 101 permits the Authority to seek information from the Revenue Commissioners, AGS, and/or an entity in another state with whom the Authority has entered into an information-sharing arrangement pursuant to section 102, which it considers necessary to verify:

- i. the authenticity of information contained in an application for a gambling licence/renewal of a gambling licence; and/or
- ii. that the proposed licensee/licensee and, if applicable, each relevant officer and beneficial owner, is a fit and proper person to be a licensee.

Section 102 authorises the Authority, subject to conditions, including the requirements of the General Data Protection Regulation and the [Data Protection Act 2018](#), to enter into information-sharing arrangements with regulatory bodies in other states that perform the same or similar functions to those performed by the Authority. Under these arrangements, the entities agree to share information that may assist them in performing their respective functions. Section 102(2) includes an important safeguard from a data protection perspective in that it stipulates that the Authority shall not provide any information without first obtaining a written undertaking that the other entity will not use or disclose the information to any other person other than for the purpose of performing their regulatory functions and will comply with any other conditions specified by the Authority.

Chapter Five of Part Five concerns the issuance of gambling licences under the Bill.

Section 104 stipulates that the standard lengths of gambling licences are as follows:

³⁰³ Finn Keyes, 'Bill Digest: Gaming and Lotteries (Amendment) Bill 2019, No. 28 of 2019' (Oireachtas Library and Research Service 2019) at p. 7, available [here](#) (last accessed 19 November 2022).

³⁰⁴ See, e.g., PLS Report, at p. 27, available [here](#) (last accessed 16 November 2022); and *ibid.*, at pp 94-95.

- Business to Consumer gambling licence – one year (although the Authority may prescribe a longer period and different periods for different licences);
- once-off lottery licence - the period specified by the Authority on the licence concerned;
- betting licence to provide pool betting - until the completion of the event, series of events or class of events in respect of which pool betting is authorised on the betting licence concerned; and
- Business to Business gambling licence - such period as may be prescribed by the Authority.

Section 105 permits applications to transfer a gambling licence held in the sole name of a licensee who is an individual where one of the following exceptional circumstances occurs:

- (a) the death of the licensee, or
- (b) the licensee ceasing to be an officer or member of an unincorporated body of persons where the licensee acquired the licence by reason of being such officer or member.

The application must be submitted to the Authority within 21 days of the event occurring and the applicant may appeal against a decision refusing a transfer in accordance with Part 9 of the Bill.

Section 106(1) imposes obligations on licensees regarding the display of gambling licences both at physical premises and on on-line platforms, depending on the licence. Section 106(4) also obliges licensees to produce a copy of their gambling licence upon the request of an authorised officer of the Authority. A person who contravenes subsections (1) or (4) shall be guilty of an offence punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months. A person accused of contravening subsection (4) shall have a defence where they can prove that they were not providing the gambling activity or that the gambling activity concerned was exempt from the requirement to obtain a licence.

Section 107 provides for new offences related to false representations concerning gambling licences, licence registration numbers, licensees and authorised officers. Section 107(1) provides that an individual shall be guilty of an offence, where they, with the intention to deceive or defraud:

- (a) alter a gambling licence or licence registration number,
- (b) make a document which falsely purports to be a gambling licence or registration number,
- (c) transfer, copy or distribute a gambling licence, licence registration number, an altered gambling licence or registration number, or a document which falsely purports to be a gambling licence or registration number, or
- (d) display, produce or otherwise use a gambling licence or registration number, an altered gambling licence or registration number, or a document which falsely purports to be a gambling licence or registration number.

Sections 107(2) and (3) provide for offences where a person fraudulently holds themselves out or represents themselves to be a licensee or an authorised officer. Section 107(4) provides that an offence under section 170 is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Chapter Six of Part Five concerns applications for Business to Consumer gambling licences, which enable licensees to provide relevant gambling activities to consumers.

Section 108 outlines the information to be included in applications for Business to Consumer gambling licences depending on the type of licence sought. For example, applicants for lottery licences should clarify the lottery products or activities they wish to provide and the manner in which the winnings are to be funded. Applications should be accompanied by any fee prescribed by the Authority under section 36.

Under **section 109**, applications for a lottery licence for a once-off lottery must be submitted to the Authority not less than 60 days before the first day on which it is intended to invite persons to participate in the lottery. Furthermore, the proposed licensee must not have held a lottery licence for a once-off lottery during the 12-month period immediately preceding the date of the application and must intend to hold the lottery within 12 months of the date of the application.

Section 110(1)(a)(ii)-(iii), (b), (c) and (d) provide that before granting a gambling licence under sections 108 or 109, the Authority must also satisfy itself that:

- the financial information provided demonstrates the capacity of the proposed licensee to provide the gambling activity/activities and to fund winnings from lawful activities;
- the proposed licensee, and, where applicable, each relevant officer and each beneficial owner, is a fit and proper person to hold the gambling licence concerned;
- where applicable, the proposed physical premises is suitable;
- where applicable, the information/documentation required under section 98 for applications to provide gambling activities by remote means has been provided; and
- where applicable, the fee prescribed by the Authority under section 36 has been provided.

These provisions incorporate important safeguards aimed at protecting consumers and vulnerable persons from applicants who are not fit to provide commercial gambling activities.

Chapter Seven of Part Five concerns applications to the Authority for the granting or renewal of gambling licences for a charitable or philanthropic purpose.

Sections 113 and 114 provide that the licensee of a gambling licence for a charitable or philanthropic purpose must be either an individual who is domiciled in the State, or a body corporate established in the State. **Section 113** outlines the information and documentation to be included in an application for such a licence, including:

- the relevant charitable or philanthropic purpose(s);
- an undertaking that at least 30% of the total payments made to participate in the gambling activity/activities will be used for the charitable or philanthropic purpose;
- for each gambling activity, the percentage of total payments above the minimum 30% that will be given to the charitable or philanthropic purpose concerned and clarification regarding what the remaining percentage will be used for;
- the proposed payment to participate in the gambling activity, the proposed winnings and the source of the winnings; and
- where applicable, such fee as may be prescribed by the Authority under section 36.

Section 114 outlines additional requirements where the application concerns a gambling licence for a charitable or philanthropic purpose for a once-off gambling activity. The proposed licensee must not have held a licence of this kind during the 12-month period immediately preceding the date of the application and must intend to hold the once-off activity within 12 months of the date of the application. In addition, applications must be submitted not less than sixty days prior to the first day on which it is intended to invite persons to participate in the once-off activity concerned.

Section 115(1)(a)(ii)-(iv), (b) and (c) incorporates safeguards for consumers in that it effectively provides that before granting a gambling licence for a charitable or philanthropic purpose under section 113 or 114, the Authority must ensure that the same requirements as are included in section 110(1)(a)(ii)-(iii), (c) and (d), discussed above, have been satisfied.

Chapter Eight of Part Five concerns Business to Business gambling licences.

Section 118 authorises the Authority, following consultation with experts and stakeholders as it considers appropriate, to develop, adopt, amend and replace or revoke, in whole or in part, standards pertaining to gambling products and services provided pursuant to Business to Business gambling licences. Sections 118(2) and (3) provide that any standards, amended standards or replaced standards shall take effect on the day following the expiry of the third anniversary of the date of their publication.

Section 119 provides that an application for a Business to Business gambling licence, a renewal of such a licence, or a variation of such a licence, shall not be made unless the applicant has first been issued a certificate by the Authority that their product or service, as applicable, is compliant with any applicable standards. The Authority may prescribe a fee for the Certificate. Section 119(7) provides that where the Authority refuses an application for a Certificate, it shall notify the manufacturer or service provider within 14 days of the decision, outlining the reasons for the decision, and certain details of the appeals process provided for under Part 9 of the Bill.

Section 120 outlines the information that should be included in applications for Business to Business gambling licences. **Section 121(1)** incorporates safeguards for businesses who purchase gambling products and services from other business, which are similar to the safeguards built into the application process for Business to Consumer licences. It provides that before granting a Business to Business licence, the Authority must also satisfy itself that:

- the financial information provided demonstrates the capacity of the proposed licensee to provide the gambling product and/or gambling related service;
- the proposed licensee, and, where applicable, each relevant officer and each beneficial owner, is a fit and proper person to hold the gambling licence concerned; and
- any fee prescribed by the Authority under section 36 has been provided.

Chapter nine concerns conditions that attach to gambling licences.

Section 125 provides that gambling licences are granted or renewed under Part Five subject to:

- any applicable conditions set out in Chapter Nine,
- such other conditions as may be prescribed by the Authority under section 124, and
- any conditions imposed under Part 8 on the licence concerned.

Section 126 outlines additional conditions that attach to Business to Consumer gambling licences and gambling licences issued for a charitable or philanthropic purpose, which largely reflect requirements that must be satisfied during the application process as discussed above.

Section 127 provides that the licensee of a Business to Consumer gambling licence who provides a relevant gambling activity from a premises in the State must notify the Authority of certain changes in respect of the premises and having been so notified, the Authority must satisfy itself that the premises remain appropriate for the relevant gambling activity

Section 128 provides that licensees of Business to Consumer gambling licensees and licensees of gambling licences for a charitable or philanthropic purpose who provide gambling activities by remote means shall notify the Authority of certain changes regarding the manner in which the activities are provided. In such circumstances, the Authority may elect to perform an additional assessment under section 99.

Sections 129 and 130 provide that Business to Consumer gambling licences, other than lottery licences for a once-off lottery, are issued subject to the condition that the licensee establish and maintain a Segregated Customer Account in a bank to hold the following relevant funds:

- money held by an individual who holds an account with the licensee or an in-person participant in gambling activities offered by the licensee;
- payments made by participants to a licensee in connection with a relevant gambling activity until such time as the activity has been completed; and
- winnings not paid out by the licensee.

Subject to section 131, section 130(5) requires a licensee to keep up-to-date records in relation to a Segregated Customer Account so as to enable the identification of, as applicable:

- the amount standing to the credit of each account-holder and in-person participant;
- the total amount of the relevant payments held by a licensee in connection with a relevant gambling activity; and
- the amount of winnings, which have not been paid out by the licensee.

Section 130(6) provides that a licensee who fails to comply with an obligation imposed under this section or under regulations adopted pursuant to section 131 commits an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, or on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 131 permits the Authority to adopt regulations concerning the operation of, and obligations surrounding, Segregated Customer Accounts.

Section 132 permits the Authority, having regard to the public interest and public safety, and having consulted with the Minister for Justice and any other relevant Minister, to prescribe matters, including criminal activities, in respect of which a bet may not be accepted by a licensee.

Section 133 provides that a gaming licence is granted subject to the condition that where a licensee participates in a game their chance of winning that game should be the same as that of all other participants. This provision is similar to [Section 9A\(6\)\(a\)](#) of the *1956 Act, as amended*, which prohibits the issuance of a gaming permit to a person for any kind of gaming where “by reason of the nature of the game, the chances of all the players, including the banker, are not equal”.

Section 134 outlines conditions that attach to a lottery licence, which largely reflect the requirements that must be satisfied before the Authority can grant such a licence.

Section 135 outlines conditions that attach to a gambling licence for a charitable or philanthropic purpose, which largely reflect the requirements that must be satisfied before the Authority can grant such a licence.

Section 136 outlines the conditions that attach to a Business to Business gambling licence, which largely reflect the requirements that must be satisfied before the Authority can grant such a licence, as discussed above. In addition, the applicant must pay, within the period specified in a notice under section 39(5), the charge under Chapter 2 of Part 2 due in respect of the licence concerned, subject to any appeal pending under Part 9 in relation to that charge.

A note on the renewal and variation of gambling licences, and on the refusal of applications

The Bill provides that a licensee of a Business to Consumer gambling licence (other than for a licence for once-off activity), a licensee of a gambling licence for a charitable or philanthropic purpose (other than a licence for a once-off gambling activity) and a licensee of a Business to Business gambling licence may apply to the Authority to renew their licence or to vary the relevant gambling activities, gambling products or gambling related services, as applicable, that they are authorised to provide pursuant to their licence.

Where the Authority refuses to:

- grant a licence,
- authorise some of the gambling activities proposed in an application for a licence,
- renew a licence, or
- vary a licence,

it must notify the applicant within 14 days of the date of its decision. The notification should include the reasons for the decision and certain details of the appeals process provided for under Part 9 of the Bill.³⁰⁵

Part Six: Obligations on Licensees and Other Persons

Part Six of the Bill concerns obligations imposed on licensees and other persons. It has six chapters and 33 sections. It substantially updates the legislative framework in so far as it relates to gambling advertising and sponsorship, creating extensive statutory obligations. It also creates multiple new offences, which in the main may be prosecuted either as summary offences or as indictable offences. The latter are punishable by a fine and/or imprisonment for up to five years or up to eight years depending on the severity of the offence.

Part Six seeks to address concerns expressed by the IDWG and key stakeholders regarding the harmful effects of gambling advertising and sponsorship on problem gamblers and vulnerable persons.³⁰⁶ Several of the provisions endeavour to prevent advertising and sponsorship that is directed, explicitly or implicitly, towards children.

Chapter One of Part Six concerns the obligations imposed on licensees and other persons regarding advertising, branded clothing and employment in gambling activities.

Section 138(1) prohibits advertising, or causing another person to advertise, a relevant gambling activity on an on-demand audio-visual media service³⁰⁷ or by any other means of electronic

³⁰⁵ Section 121(4) provides that where the Authority refuses an application for a Business to Business gambling licence, it shall notify the applicant and, if different, the proposed licensee, within 14 days of the decision.

³⁰⁶ IDWG, 'Report to Government' (March 2019) at chapter 4, available [here](#) (last accessed 18 November 2022); and PLS Report, at pp 15-19, available [here](#) (last accessed 16 November 2022).

³⁰⁷ Section 137 offers the following definition of "on-demand audio-visual media service" for the purposes of Part Six:

"(a) a media service that transmits video and music over the internet so that a person may watch or listen to the video or music immediately rather than having to download it or having to watch or listen to it at a particular time,

communication³⁰⁸ to another person unless the latter person has subscribed to the service or electronic communication and explicitly consented to receiving the advertisement by means of the service or electronic communication. Section 138(2) provides that a person who contravenes subsection (1) shall be guilty of an offence, which is punishable: on summary conviction by a class A fine and/or imprisonment for up to 12 months; and on conviction on indictment by a fine and/or imprisonment for up to five years. Section 138(3) provides that it shall be a defence for a defendant to show that they made all reasonable efforts to ensure compliance with subsection (1).

Section 139(1) prohibits advertisements of a relevant gambling activity where the advertisement includes material that is likely to:

- “(a) portray gambling as attractive to children,
- (b) condone participation in gambling by children,
- (c) encourage or cause children to gamble,
- (d) exploit the credulity, loyalty, vulnerability or lack of experience of children,
- (e) cause, condone or encourage excessive or compulsive gambling, or
- (f) mislead, deceive or confuse, whether directly or indirectly, members of the public about the potential social or financial advantages of gambling”.

This provision corresponds with the IDWG’s recommendation that the targeting of gambling advertisements should not be permitted at vulnerable persons, children and people under the age of 18 years.³⁰⁹ Section 139(2) provides that a person who contravenes subsection (1) shall be guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years. Section 139(3) provides that it shall be a defence for a defendant to show that they made all reasonable efforts to ensure compliance with subsection (1).

Section 140(1) requires that any advertisements of relevant gambling activities include:

- (a) the name and contact details of the licensee and the type of gambling licence held,
- (b) a statement that children are prohibited from participating,
- (c) a warning regarding the risk of excessive or compulsive gambling and details of the consequences of such gambling,
- (d) details of where information may be found concerning the risks associated with excessive or compulsive gambling and concerning how to address such problem gambling;
- (e) details regarding available support services for excessive and compulsive gambling; and
- (f) an explicit statement that the activity advertised is a relevant gambling activity in respect of which a person may make a relevant payment without obtaining anything in return.

The requirement for a warning regarding the risk of excessive or compulsive gambling is notable. The IDWG recommended that consideration be afforded “to whether gambling advertising,

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- (b) to which access is restricted on a country-by-country basis, and
 - (c) that is available in the State.”

³⁰⁸ Section 138 provides that electronic means of communication shall include communications: on a video-sharing platform, on a social media website, by telephone, by text message or by email.

³⁰⁹ IDWG, ‘Report to Government’ (March 2019) at p. 111, available [here](#) (last accessed 18 November 2022).

sponsorship or promotions might, in appropriate instances, be required to carry ‘health warnings’³¹⁰.

Section 140(2) provides that a person who publishes or broadcasts an advertisement relating to a relevant gambling activity shall ensure that:

- (a) the advert can be clearly identified as advertising a relevant gambling activity, and
- (b) where the advertisement is provided by means of electronic communication, a blocking facility is provided that is immediately accessible.³¹¹

The requirement for a blocking facility is notable in that the IDWG recommended that licensed gambling operators be required to have “a clear and effective opt-out provision from gambling promotions and advertisements for persons targeted by ‘push ads’ on social media”.³¹² **Section 140(3)** provides that a sample game shall not be included in an advertisement of a relevant gambling activity. A sample game could conceivably be perceived as an inducement to gamble.

Section 140(4) provides that a person who contravenes subsection (1), (2) or (3) shall be guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 141(1) imposes restrictions regarding the times at which gambling advertisements may be run. It prohibits knowingly advertising, or causing another person to advertise, a relevant gambling activity on television, radio or an on-demand audio-visual media service between the hours of 5:30 a.m. and 9:00 p.m. This provision responds to calls from stakeholders for a pre-watershed ban on gambling advertising.³¹³

Section 141(3) authorises the Authority to adopt Regulations prescribing the times, places, events, volume, frequency, duration, size, colour and font type in respect of different forms of advertising of relevant gambling activities. In so doing, the Authority must take into account:

- participation levels in different types of relevant gambling activities in the State, including excessive or compulsive gambling;
- any available expert research regarding factors that could increase or decrease excessive and compulsive gambling, and the means to address such gambling; and
- the necessity to prevent children from gambling.

Section 141(2) requires advertisers to adhere to Regulations adopted under subsection (3), which may be expressed so as to apply generally or so as to only apply to specific forms of advertising or relevant gambling activities, or to advertising through a particular medium, or to advertising at a specific place or event or category of places or events. Section 141(5) provides that a person who contravenes subsection (1), (2) or (3) shall be guilty of an offence, which is punishable on

³¹⁰ Ibid.

³¹¹ Section 140(5) clarifies that for the purposes of the section, “blocking facility” means “a facility that enables a person, who may receive an advertisement, to prevent receipt of that advertisement and other, similar advertisements, in the future”.

³¹² IDWG, ‘Report to Government’ (March 2019) at p. 111, available [here](#) (last accessed 18 November 2022).

³¹³ See, e.g., PLS Report, at p. 17, available [here](#) (last accessed 16 November 2022).

summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 142(1) prohibits the sale, supply, provision free of charge, manufacture for sale in the State or importation for sale in the State of a branded article of clothing or merchandise intended to be worn or used by a child.³¹⁴ Subsections (3) and (4) allows for a transitional period in that the prohibition shall not apply to clothing or merchandise offered for sale, supplied or provided free of charge, within 12 months of the section coming into operation. Section 142(2) prohibits the distribution of a branded article of clothing or merchandise at an event which may be attended by children. Notably, the IDWG recommended that branded clothing should not be permitted for events primarily involving persons under 18 years of age.³¹⁵ Section 142(5) provides that a person who contravenes subsection (1) or (2) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 143 amends the *Protection of Young Persons (Employment) Act 1996* to insert a new section 2A, which prohibits the employment of a child or young person in a gambling activity other than a relevant gambling activity for a charitable or philanthropic purpose as defined under the Bill. Section 2A provides that a person who contravenes this section shall be guilty of an offence.

Chapter Two of Part Six concerns general obligations imposed on licensees.

Section 144 authorises the Authority to prescribe by regulations the records and accounts, other than Segregated Customer Accounts, that licensees are required to maintain for the purposes of the Act, which may differ depending on the types of licence and gambling activities in question.

Section 145 obliges licensees to notify the Authority in writing within seven days of any material events that occur whilst a gambling licence is in force. Material events include:

- changes to the relevant officers or beneficial owners of a licensee that is a body corporate;
- changes to the address of the licensee for the purpose of serving notices under the Act,
- the conviction of a licensee and, where applicable, a relevant officer or a beneficial owner of the licensee, for a relevant offence or the institution of proceedings in relation to a relevant offence as set out in Schedule One;
- any finding, by a regulatory authority, court or tribunal outside the State, made against the licensee and, where relevant, a relevant officer or beneficial owner, of a contravention of a legal obligation imposed in a jurisdiction outside the State in respect of gambling activities outside the State and any sanction imposed; and
- any change in the licensee's financial circumstances, which may impact their capacity to provide gambling activities, fund winnings or meet their obligations under the Act.

Chapter Three of Part Six imposes obligations on licensees of a Business to Consumer license and licensees of a gambling licence for a charitable or philanthropic purpose.

³¹⁴ Section 142(6) indicates that branded clothing or merchandise is clothing or merchandise which advertises a relevant gambling activity, or bears the name of a licensee or a gambling trademark, emblem, marketing image or logo.

³¹⁵ IDWG, 'Report to Government' (March 2019) at p. 58, available [here](#) (last accessed 18 November 2022).

Section 147 obliges such licensees to take certain actions if they become aware of a suspicious gambling pattern, which suggests an attempt to influence the outcome of a relevant gambling activity. In such circumstances, the licensee is required to:

- cease accepting payments regarding the gambling activity concerned;
- notify in writing those attempting to make payments that the payments have been refused;
- notify the Authority as soon as practicable, confirm that they have ceased accepting payments and provide the Authority with a copy of all relevant records;
- inform a Superintendent of AGS for the relevant area or, in the case of an activity by remote means, the Garda National Economic Crime Bureau, as soon as practicable; and
- decline to pay out winnings on the gambling activity concerned until permitted to do so by the Authority.

Section 147(3) authorises the Authority, subject to the General Data Protection Regulation and the [Data Protection Act 2018](#) and having regard to relevant provisions of Part 8, to take such steps as it considers appropriate to inform other licensees of the suspicious gambling pattern concerned, and alert gambling regulators in other states and sporting governing bodies, where relevant, of the suspicious gambling pattern. Section 147(4) provides that a person who contravenes section 147 is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years. This section may have been influenced by the IDWG's recommendation that the Authority "develop specific licence terms and conditions to counter the potential for manipulation of sports events for gain through betting activities".³¹⁶

Section 148(1) prohibits a licensee of a Business to Consumer gambling licence and a licensee of a gambling licence for a charitable or philanthropic purpose from offering an inducement to a person to participate, or continue to participate, in a relevant gambling activity. This prohibition corresponds with a recommendation of the IDWG.³¹⁷ Section 148(2) provides that a person who contravenes section 148 is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 149(1) prohibits a licensee of a Business to Consumer gambling licence or a licensee of a gambling licence for a charitable or philanthropic purpose from permitting a child to participate in a relevant gambling activity. Section 149(2) provides that a person who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to eight years. Section 149(3) and (5) provides that an accused shall have a defence where they can prove, on the balance of probabilities (the standard of proof in civil cases), that they were reasonably mistaken that the child had attained the age of 18 years at the time of the alleged commission of the offence. Section 149(4) provides that in determining whether the accused was so mistaken the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained the said age.

³¹⁶ *Ibid.*, at pp 75-76.

³¹⁷ *Ibid.*, at p. 89.

Section 150 seeks to address the potential negative impact of gambling sponsorship on children.³¹⁸ Section 150(1) prohibits a licensee of a Business to Consumer gambling licence and a licensee of a gambling licence for a charitable or philanthropic purpose from sponsoring, or causing another person to sponsor:

- a) an event or part of an event where most of the attendees or competitors are children,
- b) an event aimed at children,
- c) an organisation, club or team in which children are members,
- d) a premises used by an organisation, club or team in which children are members, or
- e) a public activity that appeals to children.

Notably, the IDWG recommended that “no gambling related sponsorship of events primarily involving persons under 18 should be permitted. This includes the event, the team, branded clothing, location and stadium branding, pitch side-advertising hoardings”.³¹⁹ Section 150(2) provides that a person who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years. Section 150(3) provides that it shall be a defence to show that all reasonable efforts were made to ensure compliance with subsection (1).

Section 151(1) permits the Minister for Justice, following consultation with the Authority, to make regulations, which impose conditions on, restrict and/or prohibit certain promotional activities, which are intended or likely to promote relevant gambling activities.³²⁰ Section 151(2) provides that a person who contravenes any regulations adopted pursuant to subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Chapter Four of Part Six imposes obligations on licensees of a Business to Consumer gambling licence, other than licensees of a lottery licence for a once-off lottery. The obligations are aimed at protecting vulnerable persons.

Section 154(1) requires the Authority to determine the content to be included in, and the standards to be met by, training programmes undertaken by staff in relevant posts pursuant to section 155 where relevant posts are posts with duties that involve engaging with participants in gambling activities. Section 154(2) provides that the content of a training programme should afford staff:

- the ability to recognise the characteristics of excessive or compulsive gambling,
- a detailed knowledge of gambling support services,

³¹⁸ “Sponsor” is defined under section 150(4) as “making any form of public or private contribution towards an event or organisation with the aim, or direct or indirect effect, of promoting a gambling activity”.

³¹⁹ IDWG, ‘Report to Government’ (March 2019) at p. 58, available [here](#) (last accessed 18 November 2022).

³²⁰ Subsection (3) clarifies that for the purposes of the section, “promote” means offering a benefit or advantage to a person, the intent or effect of which is, either directly or indirectly, to encourage that person to participate in a relevant gambling activity and includes a benefit or advantage offered in the absence of a relevant payment.

- an understanding of the obligations imposed on licensees under Part Six, and
- the ability to assist licensees in complying with their obligations under Part Six.

Section 155(1) requires licensees of Business to Consumer gambling licences, other than licensees of a lottery licence for a once-off lottery, to ensure that members of their staff in relevant posts have completed an approved training programme both before they start work in the relevant post, and at such intervals as the Authority may prescribe. Section 155(2) provides that a person who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years. Notably, the European Commission Recommendation on on-line gambling services (2014) recommended that employees interacting directly with players be trained so as to ensure that they understand problem gambling issues and know how to respond to these issues.³²¹

Section 156(1) requires licensees of Business to Consumer gambling licences, other than licensees of a lottery licence for a once-off lottery, to provide a participant in a gambling activity with a facility whereby the participant can require that a monetary limit be set for a period that the participant specifies regarding:

- the amount they may pay to participate in any individual gambling activity, or
- the total amount they may pay to participate in all gambling activities provided by the licensee.

These limits are voluntary, as opposed to mandatory, in that it is up to the participant to decide whether to self-impose a limit. During the period specified by the participant, the licensee may not:

- provide a relevant gambling activity to the participant if it would cause him/her to exceed the monetary limit; or
- communicate with the participant in a manner that advertises a gambling activity or invites (or has the effect of inviting) him or her to participate in a gambling activity.

Section 156(6) provides that a person who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 157(1) prohibits licensees of a Business to Consumer gambling licence, other than licensees of a lottery licence for a once-off lottery, from:

- accepting payment for a relevant gambling activity by credit card,³²²
- extending a credit facility to a participant, or

³²¹ Commission Recommendation of 14 July 2014 on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online (2014/478/EU) at para. 50, available [here](#) (last accessed 4 December 2022).

³²² In accordance with subsection (2), this includes “payment by electronic or digital means which uses money loaded from a credit card or from any other source of credit”.

- participating in, arranging, permitting or knowingly facilitating the giving of credit in connection with a relevant gambling activity.

Section 157(3) also authorises the Authority to prohibit by prescription other forms of payment, and types or features of customer account schemes, which may contribute to excessive or compulsive gambling. Section 157(4) provides that a person who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years. This is an important section in that a prohibition on inducements to bet, including advancing credit to a person for the purpose of betting, was a core recommendation of the IDWG.³²³

Chapter Five of Part Six concerns obligations imposed on licensees of a remote gambling licence.

Section 159(1) provides that a licensee of a remote gambling licence may not provide a relevant gambling activity by remote means to a person unless:

- the person has opened a gambling account with the licensee,
- the licensee has entered that account into the register of account-holders, and
- the terms and conditions of the gambling account have been provided to the account-holder in writing.

Section 159(4) provides that a person who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 160(1) imposes an obligation on a licensee of a remote gambling licence to establish and maintain a register of account-holders. Section 160(5) provides that a licensee of a remote gambling licence who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 161 confirms that applicants seeking to open a gambling account with a licensee of a remote gambling licence must have attained the age of 18 years. The licensee is required to verify the applicant's identity and age. Until such a time as the Authority prescribes otherwise, a licensee may verify the age and identity of an applicant through a copy of a photo ID, which specifies the applicant's name, address and date of birth. The licensee must satisfy themselves that the copy relates to the applicant. Notably, during PLS of the Bill, stakeholders called for robust age verification measures.³²⁴ The IDWG also called for age verification processes.³²⁵ Section 161(5) provides that a licensee of a remote gambling licence who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for

³²³ IDWG, 'Report to Government' (March 2019) at pp 80 and 89, available [here](#) (last accessed 18 November 2022).

³²⁴ PLS Report, at p. 34, available [here](#) (last accessed 16 November 2022).

³²⁵ IDWG, 'Report to Government' (March 2019) at p. 107, available [here](#) (last accessed 18 November 2022).

up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to eight years.

Section 162 authorises the Authority to make regulations regarding the minimum and maximum amounts of money that may be lodged in the accounts of account-holders. Section 162(2) provides that a licensee of a remote gambling licence who contravenes any regulations adopted under subsection (1) shall be guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 163(1) obliges a licensee of a remote gambling licence to close an account-holder's gambling account where the account-holder requests them to do so in writing or declines to participate in any relevant gambling activity provided by the licensee by remote means for six months. Section 163(2) stipulates that subsection (1) shall not apply whilst an account-holder is entered on the National Gambling Exclusion Register. Section 163(3) obliges a licensee to refund any money in a gambling account to an account-holder who requests them to close their account in writing. However, where the account is closed due to inactivity for six months, the licensee is only required to make *reasonable efforts* to refund any money in the account. Section 163(4) provides that where the licensee is unable, having made such reasonable efforts, to refund the money, they shall arrange with the Authority to have it transferred to the Social Impact Fund.

Section 164 requires licensees of a remote gambling licence to ensure that persons engaging in a relevant gambling activity by remote means are provided with the terms and conditions of the activity, which should also be accessible on the licensee's website and should be worded, in so far as is practicable, in clear and plain language. In addition, the terms and conditions must be expressly accepted by the account-holder before any payment is made (including the initial and any subsequent payment). Section 164(4) provides that a licensee of a remote gambling licence who contravenes section 164 is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 165 provides that the Authority may prescribe information which licensees of remote gambling licences are required to provide to account-holders regarding:

- the characteristics and adverse effects of excessive or compulsive gambling,
- the facilities available to support gambling in a manner that avoids excessive or compulsive gambling,
- blocking facilities, which block the account-holder's access and/or the access of a child to the licensee's gambling websites or platforms, and
- gambling support services, which provide information and assistance regarding excessive or compulsive gambling.

The above information must also be prominently displayed on the licensee's home page and on each online platform where a relevant gambling activity can be accessed.

Section 165 (4) requires licensees of a remote gambling licence to send alerts to account-holders, at intervals prescribed by the Authority under subsection (6), regarding the account-holders' winnings and losses, and the time they have spent gambling remotely through their account. Licensees must also provide the account-holder with immediate access to:

- the amount of money in their gambling account, and

- details of the amounts they have paid to participate by remote means in relevant gambling activities over periods to be prescribed by the Authority under subsection (6).

Section 165(7) provides that a licensee of a remote gambling licence who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 166(1) requires a licensee of a remote gambling licence to display, or cause to be displayed, a hyperlink to parental control programmes on the home page of their website and on each online platform where a relevant gambling activity can be accessed. Section 166(2) provides that a licensee of a remote gambling licence who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 167(1) provides that a licensee of a remote gambling licence must adhere to any restrictions prescribed under regulations made by the Authority regarding days and/or hours during which relevant gambling activities may not be provided by remote means. Section 167(2) provides that a licensee of a remote gambling licence who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Chapter Six of Part Six concerns obligations imposed on licensees of an in-person gambling licence.

Section 168(1) provides that a licensee of an in-person gambling licence must adhere to any rules concerning opening hours prescribed by the Authority. Section 168(2) provides that the Authority may by regulations prohibit the sale by the licensee on the licenced premises of any item specified in the regulations which the Authority considers would entice persons to engage in relevant gambling activities. This is significant given the link between gambling addiction and alcohol use and alcohol addiction, as discussed previously. Section 168(3) provides that a licensee who contravenes subsection (1) or regulations made under subsection (2) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Section 169(1) prohibits a licensee of an in-person gambling licence from permitting a child to enter or be on a premises in which a relevant gambling activity is or may be provided. Section 169(2) provides that a licensee who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to eight years.

Section 170(1) provides that a licensee of an in-person gambling licence shall not provide or permit a cash-point on a premises where gambling activities are being provided. Section 170(2) provides that a licensee who contravenes subsection (1) is guilty of an offence, which is punishable on summary conviction by a class A fine and/or imprisonment for up to 12 months, and on conviction on indictment by a fine and/or imprisonment for up to five years.

Part 7: Complaints

Part 7 of the Bill deals with complaints made to the Authority in relation to an alleged contravention of an obligation by a licensee. **Section 172** provides that a person shall make a complaint in writing not more than 12 months after the date of the alleged contravention referred to, though this period is extendable. Certain complaints may be dismissed by the Authority if they are, for example, frivolous or vexatious, similar to a previous complaint, or made in bad faith. Where the Authority does not dismiss a complaint, they may do one or more of the following:

- (a) where it is of the opinion that a licensee has contravened or is contravening a relevant obligation, proceed in accordance with section 181 (see Part 8, below);
- (b) take such other action in respect of the complaint as the Authority considers appropriate; or
- (c) take no further action in respect of the complaint.

The Authority may also make regulations to ensure the effective operation of this Part.

Part 8: Compliance with and Enforcement of Obligations of Licensees

Part 8 of the Bill provides for key elements of the Authority's regulatory regime, namely its statutory powers in respect of compliance and enforcement. In relation to this Part, the Bill's Explanatory Memo notes:

"The overall policy intention is to encourage compliance rather than to enforce penalties for non-compliance; however, where penalties are appropriate, the Authority will have robust powers in respect of the imposition of a wide array of sanctions from relatively mild to potentially severe."³²⁶

Chapter 2 provides for the appointment by the Authority of authorised officers who have the necessary expertise to fulfil the role.

Powers of an authorised officer

The powers of an authorised officer are provided for in **section 177**. The officer may enter, if necessary by the use of reasonable force, at any reasonable time, any place where the authorised officer has reasonable grounds for believing that—

- (i) a gambling activity has taken place, is taking place or is intended to take place,
- (ii) relevant material is being kept, or
- (iii) gambling products are being kept;

The officer may search the place, inspect any relevant material and require a person to produce any relevant material, or otherwise facilitate access to this material by the officer. The officer may also make copies of relevant material and remove and retain such material as necessary.

The inviolability of the dwelling is protected by **section 177(4)**, which provides that an officer shall not enter a dwelling other than with the consent of the occupier, or in accordance with a warrant issued under **section 178**. Search warrants, which permit an officer and/or members of AGS, to

³²⁶ Explanatory Memorandum, at p. 14, available [here](#) [last accessed 5 December 2022].

enter and search a relevant dwelling, may be issued by a judge of the District Court. The period of validity of a warrant issued under this section shall be 28 days from the date of its issue, but this period may be extended.

An officer may also require a person to provide their name and address, and other material relevant to the investigation, within a designated period of time. A person may also be required to attend before an officer for the purpose of providing relevant information.

Section 117(15) provides that a person is guilty of an offence if he or she “withholds, destroys, conceals or refuses to provide relevant equipment or relevant material” that is required for the officer’s investigation. It is also an offence to: knowingly provide an officer with false or misleading relevant material, refuse to comply with requests under this section, or otherwise obstruct or impede the performance of the officer’s duties. A person guilty of an offence under subsection (15) is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years, or both.

Chapter 3 provides for compliance with relevant obligations. **Section 179** provides that there is an obligation on licensees to furnish a compliance report, information and documentation to the Authority on request by the Authority. The purpose of this report is to enable the Authority to confirm that licensees have complied, or are complying, with their relevant obligations. A licensee shall comply with a request from the Authority for a compliance report within a period of 14 days of the date of the notice. They shall provide any further requested information within the period specified in the notice or within such further period as may be agreed in writing.

Section 180 provides that the Authority may apply to the District Court to compel a licensee to comply with a request for information under **section 179** within a specified period of time.

Action of the Authority in response to non-compliance

Sections 181 and 182 set out the action that may be taken by the Authority in relation to an alleged contravention of a relevant obligation. Where the Authority is of the opinion that a licensee has contravened or is contravening a relevant obligation, the Authority may:

(a) enter into an agreement with the licensee in accordance with section 182,

(b) proceed to deal with the alleged contravention under Chapter 4, or

(c) carry out a directed investigation in accordance with Chapter 5.

These are addressed in detail below. The decision on which course of action to take shall be informed by a number of factors, as set out in **section 181**.

a) Section 182 of Chapter 3

Section 182 provides that the Authority may enter into an agreement in writing with a licensee setting out the steps which the licensee agrees to take and the time period within which the licensee shall comply with a relevant obligation.

b) Chapter 4

Chapter 4 provides for notices of non-compliance. Under **section 183**, where the Authority has made a decision under **section 181(1)(b)**, the Authority may, by notice in writing to the licensee:

- (a) specify the relevant obligation in respect of which the decision is made,
- (b) require the licensee to comply with the relevant obligation,
- (c) invite the licensee, where that licensee is of the view that there has been or is no contravention of a relevant obligation, to set out the reasons for that view within the period specified in the notice, or
- (d) state that a notice of non-compliance shall issue where the licensee—
 - (i) has contravened or is contravening the relevant obligation, or
 - (ii) fails to give reasons, satisfactory to the Authority, within the period specified in the notice, as to why the licensee is of the view that there has been or is no contravention of the relevant obligation.

Under **section 184**, where the licensee continues to not comply with the relevant obligation, the Authority shall issue a notice of non-compliance. This will usually be issued if the non-compliance is of a less serious nature. The notice may be accompanied by an advice, caution, warning or reprimand, or by the imposition of one or more than one condition on the licence in question.

The Authority may also apply to the Circuit Court to have the licensee's gambling licence suspended or revoked.

c) Chapter 5

Chapter 5 concerns directed investigations by the Authority. Directed investigation provides for the Authority to direct its authorised officers to undertake investigations. Following consideration of an authorised officer's final report on an investigation, the Authority may take any of a number of courses of action including referring the report to an adjudication officer for independent consideration.

Chapters 6 and 7 - Adjudication

Chapters 6 and 7 provide for decisions on adjudication, and adjudication officers. These Chapters provide for the appointment of independent adjudication officers to consider matters referred to them by the Authority following a directed investigation.

Under **Chapter 6**, where an investigation report is referred by the Authority under **section 188(2)(b)**, the chief adjudication officer shall assign an adjudication officer to conduct an adjudication in relation to the alleged contravention of a relevant obligation to which that report relates.

Under **section 193**, the adjudication officer shall provide the licensee with notice in writing. The adjudication officers have a variety of powers in relation to the conduct of adjudication. This includes the power to hold oral hearings (see section 202), call and question witnesses, request submissions from relevant parties, and request information or documentation from relevant parties.

Section 202 provides for oral hearings. The Bill's Explanatory Memo notes³²⁷ that, in the context of holding an oral hearing, an adjudication officer will have the same powers, rights and privileges as a judge of the High Court when hearing civil proceedings including with respect to:

³²⁷ Explanatory Memorandum, at p. 15, available [here](#) [last accessed 5 December 2022].

- the attendance and examination of witnesses on oath or otherwise (including witnesses who are outside the State);
- compelling the production (including discovery) of records or an identified category or categories of records.

The section also provides for remote hearings, which may be conducted at the discretion of an adjudication officer.³²⁸

Under **section 194**, where an adjudication officer decides (on the balance of probabilities) that a licensee is, or has been, in contravention of a relevant obligation, one or more administrative sanctions may be imposed (as set out in **section 189**), subject to the exercise of a right of appeal by the licensee or confirmation by the Circuit Court on application by the Authority. Those sanctions are:

- (a) a financial penalty (see **sections 191 and 197**);³²⁹
- (b) a suspension of a gambling licence (see **section 192**);
- (c) a revocation of a gambling licence (see **section 192**); or
- (d) the imposition of a condition on a gambling licence. (see **section 192**)

Under **section 195** a notice of the penalty must be sent to the Authority, and a copy of this will then be sent by the Authority to the licensee. The conditions regarding the taking effect of a decision as to contravention and the taking effect of an administrative sanction are set out in **section 196**.

Section 197 provides for limitations on the financial penalties that may be imposed as an administrative sanction under the Bill. Under section 197(1), the amount of a financial penalty imposed as an administrative sanction under Chapter 6 shall not exceed €20,000,000, or if greater, 10% of the turnover of the licensee in the financial year preceding the date of the adjudication officer's decision as to contravention or in any year in which the act or acts occasioning the administrative sanction occurred.

Subsection (2) sets out 13 factors to that will be considered in determining the amount of the financial penalty to be imposed. These include:

- the nature, gravity and duration of the contravention;
- the degree of harm to particular people, to consumers or to the public generally caused as a result of the contravention;
- the extent of any failure by the licensee to co-operate with the Authority, an authorised officer or an adjudication officer in the performance of their functions under this Part in so far as it relates to the contravention concerned; and

³²⁸ See Oireachtas Library & Research Service, 2020, [L&RS Note: Remote Court Hearings](#).

³²⁹ See Oireachtas Library & Research Service, 2019, [Spotlight: Administrative financial sanctions](#).

- any gain (financial or otherwise) made, or any loss (financial or otherwise) avoided, by the licensee concerned or by any person in which that licensee has a pecuniary or beneficial interest, as a consequence of the contravention.

A payment made by a licensee to the Authority in respect of a financial penalty which has taken effect as an administrative sanction shall be paid into, or disposed of for the benefit of, the Exchequer by the Authority in such manner as the Minister for Finance may direct.

Section 198 provides for appeals against decisions relating to contravention and administrative sanctions. Appeals may be made to the “appropriate court”. Section 189 provides that

- (a) where no financial penalty is imposed under section 194(12) or where the amount of a penalty imposed does not exceed €75,000 or such other sum as stands specified in law as that court’s jurisdiction in tort, the Circuit Court, or
- (b) in any other case, the High Court.

This reflects the monetary jurisdiction of the respective courts.

Under **section 204**, the Minister may make regulations in relation to proceedings before adjudication officers.

Chapter 7 provides for the nomination and appointment of adjudication officers. Under **section 207**, suitably qualified officers, as nominated by the Authority under **section 206**, may be appointed by the Minister. **Section 208** provides that an adjudication officer shall be independent in the performance of their functions. The Minister shall, under **section 209**, make regulations regarding the necessary qualification, experience, training etc. of adjudication officers, and set out the applicable terms of their appointment and remuneration. Under **sections 210 and 211**, assistance may be provided to the adjudication officer in the performance of their functions.

Chapter 8 provides that, upon receipt of an *ex parte* application from the Authority, the High Court may make a number of temporary emergency orders, including orders directing that:

- (a) the gambling licence of a licensee be suspended with immediate effect; and/or
- (b) the licensee cease providing a relevant gambling activity or a relevant gambling product or relevant gambling related service.

Before making such an emergency order, the High Court must satisfy itself that there is an urgent need to act in order to protect:

- (a) the public from the serious consequences of an ongoing contravention of a relevant obligation by a licensee, or
- (b) relevant funds contained in a Segregated Customer Account.

Part 9: Appeals

Part 9 provides that appeals may be made by licensees in respect of decisions made by the Authority including with regard to the imposition of charges on licensees and in relation to the Authority’s licensing and compliance and enforcement functions. Appeals may be made, as provided for under the Bill, to an Appeals Panel or to the Circuit Court.

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