

Betting, Gaming, Lotteries and Amusements (Amendment) Bill

[AS AMENDED AT CONSIDERATION STAGE]

LEGISLATIVE COMPETENCE

At Introduction the Minister for Communities had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Betting, Gaming, Lotteries and Amusements (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”

Betting, Gaming, Lotteries and Amusements (Amendment) Bill

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A

BILL

TO

Amend the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Interpretation

Interpretation

1. In this Act “the 1985 Order” means the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.

5

Betting

Opening of licensed offices on Sunday and Good Friday

2. In Article 31(1) of the 1985 Order (days when licensed office not to open) for “Sunday, Christmas Day or Good Friday” substitute “Christmas Day”.

Sunday working in licensed office

10 3.—(1) Schedule 8A to the 1985 Order (rights of betting workers as regards Sunday working) is amended as follows.

(2) In paragraph 1 for sub-paragraph (2) substitute—

“(2) In this Schedule “betting work” means—

15 (a) work at a track for a bookmaker on a day on which the bookmaker acts as such at the track, being work which consists of or includes dealing with betting transactions, and

(b) work in a licensed office on a day on which the office is open for use for the effecting of betting transactions.”.

20 (3) In paragraph 1 in sub-paragraph (4) for the definition of “commencement date” substitute—

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“commencement date” means—

(a) in relation to a person who is a betting worker by virtue of sub-paragraph (2)(a), the day on which Schedule 1 to the Betting and Gaming (Northern Ireland) Order 2004 comes into operation;

(b) in relation to a person who is a betting worker by virtue of sub-paragraph (2)(b), the day on which section 3 of the Betting, Gaming, Lotteries and Amusements (Amendment) Act (Northern Ireland) 2021 comes into operation.”

(4) In paragraph 8(4), in the prescribed form, after the words “at the track” insert “or in a licensed office on a Sunday on which it is open for business”.

(5) In Article 53B of the 1985 Order (Sunday observance) at the end insert “or having effected a betting transaction on a non-sporting event at a licensed office which is open on a Sunday.”.

Pool betting

4. In Article 44 of the 1985 Order (restriction of pool betting), in paragraph (2) for “paragraph (3)” substitute “paragraphs (3) and (3A)” and after paragraph (3) insert—

“(3A) If the conditions mentioned in paragraph (3B) are satisfied, paragraph (2) does not apply to a licensed bookmaker who, on licensed premises, carries on a pool betting business which is linked to such a business carried on by means of a totalisator at a licensed track.

(3B) The conditions are that—

(a) a person placing a bet at the licensed premises by way of the pool betting business does so on the same terms and conditions as if the bet were placed by means of the totalisator at the licensed track concerned, and

(b) before receiving a bet by way of the pool betting system, the licensed bookmaker displays at the licensed premises a notice—

(i) indicating the name of the licensed track concerned; and

(ii) containing information corresponding to that which the operator of that track is required to post at the track in accordance with paragraph 3 of Schedule 8.”.

Bingo clubs

Persons who may participate in bingo at bingo club

5. In Article 75 of the 1985 Order (persons who may participate in bingo) the following provisions are repealed—

(a) in paragraph (3)(a) the words “who, at the time when he begins to take part in the bingo, is eligible to take part in it”;

(b) in paragraph (3)(b) the words “and who, at the time when the guest begins to take part in the bingo, is eligible to take part in it”;

(c) paragraph (4).

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Days when bingo and use of gaming machines permitted on bingo club premises

6.—(1) In Article 76(7) of the 1985 Order (days when bingo may not take place on bingo club premises) for “Sunday, Christmas Day or Good Friday” substitute “Christmas Day”.

(2) In Article 108(3) of the 1985 Order (days when gaming machines may not be made available for gaming on bingo club premises) for “Sunday, Christmas Day or Good Friday” substitute “Christmas Day”.

Gaming machines

Offence of inviting, etc. person under 18 to play gaming machine

7.—(1) After Article 124 of the 1985 Order insert—

“Prohibition on inviting, etc. person under 18 to play gaming machine

124A.—(1) Any person who invites, causes or permits an individual under the age of 18 to play a gaming machine, other than a lower limit gaming machine, is guilty of an offence.

(2) In any proceedings against a person for an offence under paragraph (1), it is a defence to prove that there was good reason to believe that the person under the age of 18 had attained that age.

(3) In paragraph (1) a “lower limit gaming machine” means a gaming machine—

(a) which is installed on premises in respect of which there is in force an amusement permit; and

(b) in respect of which the condition in Article 108(7) is observed.”.

(2) In Schedule 18 to the 1985 Order (Table of offences with mode of prosecution and punishments) after the entry relating to Article 124(4) insert the following entry—

“124A(1).	Inviting, etc. person under 18 to play gaming machine	Summary.	Level 5 or imprisonment for 6 months or both.”.
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Lotteries

Arrangements not requiring persons to pay to participate

8.—(1) Renumber Article 131 of the 1985 Order (illegality of lotteries) as paragraph (1) of that Article and after that paragraph insert—

“(2) For the purposes of this Part an arrangement is not a lottery unless persons are required to pay to participate in the arrangement; and Schedule 15A makes provision about when an arrangement is or is not to be treated for those purposes as requiring persons to pay to participate.”.

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(2) After Schedule 15 to the 1985 Order insert the Schedule set out in the Schedule to this Act.

Rules for societies' lotteries

9. In Article 137 of the 1985 Order (rules for societies' lotteries)—

- 5 (a) in paragraph (5) (price limit on tickets) for “£1” substitute “£100”;
- (b) in paragraph (14) (limit on amount which may be appropriated for expenses) for sub-paragraph (b) substitute—
“ (b) 20 per cent. of the whole proceeds of the lottery.”;
- (c) paragraph (15) is repealed.

10 *Miscellaneous amendments of 1985 Order*

Qualifications by age, residence or corporate status for licences, certificates and permits

10.—(1) In the following provisions of the 1985 Order—

- 15 (a) Article 7(5)(a) (bookmaker's licences),
 - (b) Article 61(5)(a) (bingo club licences),
 - (c) Article 84(4)(a) (gaming machine certificates and gaming machine permits), and
 - (d) Article 141(4)(a) (lottery certificates),
- for “21” (the minimum age restriction) substitute “18”.

20 (2) The following provisions of the 1985 Order (which impose restrictions or prohibitions by reference to residence) are repealed—

- 25 (a) Article 7(5)(b) and (c) and (7) (bookmaker's licences),
- (b) Article 61(5)(b) and (c) (bingo club licences),
- (c) Article 84(4)(b) and (c) (gaming machine certificates and gaming machine permits), and
- (d) Article 141(4)(b) and (c) (lottery certificates).

(3) The following provisions of the 1985 Order (which restrict or prevent certain corporate bodies from holding licences, certificates or permits) are repealed—

- 30 (a) Article 7(5)(d) and (6) (bookmaker's licences),
- (b) Article 61(5)(d) and (6) (bingo club licences),
- (c) Article 84(4)(d) and (5) (gaming machine certificates and gaming machine permits), and
- (d) Article 141(4)(d) and (5) (lottery certificates).

35 (4) In Article 109(2) of the 1985 Order (which limits the grant of amusement permits to certain corporate bodies) for “a company registered under the Companies Act 2006 in Northern Ireland” substitute “a body corporate”.

(5) In Article 155(2) of the 1985 Order (which limits the grant of pleasure permits to certain corporate bodies) for “a company registered under the Companies Act 2006 in Northern Ireland” substitute “a body corporate”.

Prize competitions not requiring persons to pay to participate

11.—(1) Article 168 of the 1985 Order (prize competitions) is amended as follows.

(2) In paragraph (1) for “paragraph (2)” substitute “paragraphs (2) and (2A)”.

5 (3) After paragraph (2) insert—

“(2A) An arrangement is not a competition for the purposes of this Article unless persons are required to pay to participate in the arrangement; and Schedule 15A makes provision about when an arrangement is or is not to be treated for those purposes as requiring persons to pay to participate.”.

10 **Cheating**

12. For Article 169 of the 1985 Order (offence of cheating) substitute—

“Cheating

169.—(1) A person who—

(a) cheats at gambling, or

15 (b) does anything for the purpose of enabling or assisting another person to cheat at gambling,

is guilty of an offence.

(2) For the purposes of paragraph (1) it is immaterial whether a person who cheats—

20 (a) improves his chances of winning anything, or

(b) wins anything.

(3) Without prejudice to the generality of paragraph (1), cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with—

25 (a) the process by which gambling is conducted, or

(b) a game, sport, pastime or other event or process to which gambling relates.

(4) In this Article “gambling” means gaming, betting or participating in a lottery.”.

30 **Enforceability of gambling contracts**

13.—(1) The following provisions of the 1985 Order are repealed—

(a) Article 170 (which voids contracts by way of gaming or wagering);

(b) Article 171 (securities in connection with gaming or wagering deemed given for an illegal consideration).

35 (2) The fact that a contract relates to gambling does not prevent its enforcement.

(3) Subsection (2) is without prejudice to any rule of law preventing the enforcement of a contract on the grounds of unlawfulness (other than a rule relating specifically to gambling).

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(4) The repeals in subsection (1) do not permit enforcement of a right which is created or which arises from an agreement made before this section comes into operation.

5 (5) In this section “gambling” means gaming, betting or participating in a lottery (within the meaning of the 1985 Order).”.

Industry levy

14.—(1) After Article 172 of the 1985 Order insert—

“Industry levy

10 172A.—(1) The Department may make regulations for, or in connection with, requiring every person who intends to make an application to which this Article applies to pay a levy to the Department.

(2) This Article applies to an application—

- (a) for the grant or renewal of a bookmaker’s licence;
- 15 (b) for the grant or renewal of a bookmaking office licence or to have the provisional grant of a bookmaking office licence declared final;
- (c) for the grant or renewal of a bingo club licence or to have the provisional grant of a bingo club licence declared final;
- (d) for the grant or renewal of a gaming machine certificate or permit;
- 20 (e) for the grant or renewal of an amusement permit or to have the provisional grant of an amusement permit declared final.

(3) Regulations under paragraph (1) must make provision for the amount of the levy, its payment and general administration and may, in particular—

- 25 (a) make provision for the determination of the amount of the levy according to a specified formula or in some other way;
- (b) make provision requiring the Department to issue a receipt in respect of payment of the levy in relation to an application and for ensuring that the application does not proceed unless it is accompanied by the relevant receipt;
- 30 (c) make provision for the repayment of levy to an applicant whose application is refused;
- (d) make such modifications of this Order as are necessary or expedient to give full effect to the levy.

35 (4) The proceeds of a levy are to be expended by the Department in providing financial assistance for projects related to—

- (a) addiction to gambling; or
- (b) other forms of harm or exploitation associated with gambling.

(5) Financial assistance under paragraph (4)—

- 40 (a) may be provided by grants, loans or any other form of financial assistance;

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(b) may be made or given on terms or conditions (which may include terms and conditions as to repayment with or without interest);

(c) requires the consent of the Department of Finance.

5 (6) Before making any regulations under this Article the Department must consult such organisations as appear to the Department to represent the interests of—

10 (a) persons who have suffered from, or been affected by, addiction to gambling or other forms of harm or exploitation associated with gambling;

(b) persons who have experience or knowledge of issues relating to such addiction, harm or exploitation; and

(c) the gambling industry in Northern Ireland.

15 (7) In this Article “gambling” means betting, gaming or participating in a lottery.”.

(2) In Article 186 of the 1985 Order (orders and regulations)—

(a) after paragraph (3) insert—

20 “(3A) No regulations may be made under Article 172A unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”;

(b) in paragraph (4) for “paragraph (3)” substitute “paragraphs (3) and (3A)”.

Code of practice

15. After Article 180 of the 1985 Order insert—

“Code of practice

25 **Code of practice**

180A.—(1) The Department must issue one or more codes of practice about the manner in which facilities for gambling are provided (whether by the holder of a licence, permit or certificate under this Order or by another person).

30 (2) In particular a code must describe arrangements that should be made by a person providing facilities for gambling to meet an expected duty of care to those using the facilities to include, but not be limited to—

(a) ensuring that gambling is conducted in a fair and open way,

35 (b) protecting persons under the age of 18 and other vulnerable persons from being harmed or exploited by gambling, and

(c) making assistance available to persons who are or may be affected by problems related to gambling.

(3) A code may include provision about how facilities for gambling are advertised or described.

40 (4) A code may be revised or revoked by the Department.

(5) A code, and any revision, must state when it comes into force.

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(6) The Department must publish a code and any revision in a manner which the Department thinks likely to bring it to the attention of those whose activities it concerns.

5 (7) The Department may make different provision under this Article for different cases or circumstances (whether or not by way of separate codes of practice).

(8) A failure to comply with a provision of a code does not of itself make a person liable to criminal or civil proceedings.

(9) But a code—

- 10 (a) is admissible in evidence in criminal or civil proceedings,
(b) must be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant, and
(c) must be taken into account by the Department, a court or a district council in the exercise of a function under the 1985 Order.

15 (10) Before issuing or revising a code under this Article the Department must consult—

- (a) such organisations as appear to the Department to represent the interests of the gambling industry in Northern Ireland,
20 (b) persons who appear to the Department to have knowledge about social problems relating to gambling,
(c) in the case of a code including provision by virtue of paragraph (3), persons who appear to the Department to have a relevant responsibility for regulating the advertising industry,
(d) persons who appear to the Department to represent district
25 councils,
(e) the Chief Constable, and
(f) in such manner as the Department thinks appropriate, members of the public.

30 (11) Serious, significant, continuing or multiple breaches of a code is a ground of revocation or cancellation of a licence, registration or permit under Articles 27, 42, 92, 103 or 121.

(12) In this Article “gambling” means betting, gaming or participating in a lottery.”

Short title and commencement

35 **Short title and commencement**

16.—(1) This Act may be cited as the Betting, Gaming, Lotteries and Amusements (Amendment) Act (Northern Ireland) 2022.

(2) Except as provided by subsection (3), this Act comes into operation on the day after the day on which this Act receives Royal Assent.

40 (3) Sections 7, 12, 14 and 15 come into operation on such day or days as the Department for Communities may by order appoint.

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(4) An order under subsection (3) may contain transitional provisions and savings in connection with any provision brought into operation by the order.

SCHEDULE

Section 8

SCHEDULE 15A TO THE 1985 ORDER, AS INSERTED

“SCHEDULE 15A

5 LOTTERIES AND COMPETITIONS: REQUIREMENT TO PAY IN ORDER
TO PARTICIPATE

Introduction

1. This Schedule makes provision about the circumstances in which an arrangement is to be or not to be treated for the purposes of Articles 131(2) and
10 168(2A) as requiring persons to pay in order to participate in the arrangement.

Meaning of payment

2. For the purposes of Articles 131(2) and 168(2A) and this Schedule a reference to paying includes a reference to—

- (a) paying money,
- 15 (b) transferring money’s worth, and
- (c) paying for goods or services at a price or rate which reflects the opportunity to participate in an arrangement.

3. It is immaterial for the purposes of Articles 131(2) and 168(2A) and this Schedule—

- 20 (a) to whom a payment is made, and
- (b) who receives benefit from a payment.

4. It is also immaterial for the purposes of Articles 131(2) and 168(2A) and this Schedule whether a person knows when making a payment that the person thereby participates in an arrangement.

25 *Stamps, telephone calls, etc.*

5.—(1) For the purposes of Articles 131(2) and 168(2A) and this Schedule a reference to paying does not include a reference to incurring the expense, at a normal rate, of—

- (a) sending a letter by ordinary post,
- 30 (b) making a telephone call, or
- (c) using any other method of communication.

(2) For the purpose of sub-paragraph (1)—

- (a) a “normal rate” is a rate which does not reflect the opportunity to enter a lottery, and
- 35 (b) ordinary post means ordinary first-class or second-class post (without special arrangements for delivery).

Payment to discover whether prize won

6. For the purposes of Articles 131(2) and 168(2A) and this Schedule a requirement to pay in order to discover whether a prize has been won under an arrangement is to be treated as a requirement to pay in order to participate in the arrangement.

Payment to claim prize

7. For the purposes of Articles 131(2) and 168(2A) and this Schedule a requirement to pay in order to take possession of a prize which has or may have been allocated to a person under an arrangement is to be treated as a requirement to pay in order to participate in the arrangement.

Choice of free entry

8.—(1) For the purposes of Article 131(2) and 168(2A) and this Schedule an arrangement is not to be treated as requiring persons to pay in order to participate if under the arrangement—

- (a) each individual who is eligible to participate has a choice whether to participate by paying or by sending a communication,
- (b) the communication mentioned in paragraph (a) may be either a letter sent by ordinary post, or another method of communication which is neither more expensive nor less convenient than paying to participate in the arrangement,
- (c) the choice is publicised in such a way as to be likely to come to the attention of each individual who proposes to participate, and
- (d) the system for allocating prizes does not differentiate between those who participate by paying and those who participate by sending a communication.

(2) In this paragraph “ordinary post” has the meaning given by paragraph 5(2)(b).

Power to make regulations

9. Regulations may provide that an activity of a specified kind or performed in specified circumstances is to be or not to be treated for the purposes of Articles 131(2) and 168(2A) as paying to participate in an arrangement.”

Betting, Gaming, Lotteries and Amusements (Amendment) Bill

[AS AMENDED AT CONSIDERATION STAGE]

A Bill to amend the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985; and for connected purposes.

Introduced by: Ms Deirdre Hargey, Minister for Communities

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