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GM-0062-2022

Dear Janice

**Deliberations on the Betting, Gaming, Lotteries and Amusements (Amendment) Bill -
Responses from Meeting of 13 January 2022**

Thank you for your letter of 14th January requesting a formal response to the queries raised during the briefing session with officials on Thursday 13th January.

I attach at **Appendix A**, responses to each of the questions asked.

Yours sincerely

Diane Mulligan
Departmental Assembly Liaison Officer
Private Office

Deliberations on the Betting, Gaming, Lotteries and Amusements (Amendment) Bill – Evidence Session 13 January 2022.

Clause 1 – Interpretation

No queries were raised by the Committee.

Clause 2 – Opening of licensed offices on Sunday and Good Friday

With reference to the Sunday and Good Friday opening of licensed offices, a Member queried why Easter Sunday was not a day the offices were closed and what type of events would be taking place on Easter Sunday of benefit to the licensed offices.

The Member requested some examples of events that take place on Easter Sunday when it would be of benefit to licensed offices to open – please provide some examples.

Answer

- The policy intention is to primarily:-
 - Remove the prohibition on Bookmakers opening on Sundays to bring them into line with their counterparts who are permitted to operate on Sundays on race-courses, dog tracks and in licensed amusement arcades; and
 - To ensure fairness for land based operators against online operators who can operate 24 hours per day 365 days per year.
- Officials are not aware of any policy reason why Bookmakers should not be permitted to trade on Sundays given that other retail and leisure outlets are permitted to open.
- As regards permitting opening on Easter Sunday – this is in line with what happens in other jurisdictions.
- Sundays, including Easter Sunday, are very busy days for sports across the world. Examples of sporting events due to take place on Easter Sunday includes: - World Snooker Championships; European Club; GAA matches, Motor Race meetings; Horseracing; Rugby and American National Basketball (NBA) games.
- Some people bet on sporting events/fixtures taking place all over the world and not just locally.

Committee queried the future potential for a Gambling Regulator for NI and also a Gambling Strategy and why there was at least no ‘enabling clause’ in the Bill for a Regulator.

The Officials stated that such powers are better in secondary legislation and that also more research was needed.

Please confirm these explanations and the Minister's thinking on these matters in the response to this letter and also any further information regarding the potential appointment of an Independent Advisor to take forward the work needed.

Answer

Regulator /Independent Advisor

- The Minister has stated on several occasions that she is supportive in principle of having an independent gambling regulator.
- The Minister wants to see the regulator go hand in hand with a complete overhaul of the entire 1985 Order as part of Phase 2 reform.
- As an interim step, she is considering the appointment of an independent advisor on a temporary basis. Such an appointment can be made without legislation.
- It is expected that an advisor could draw up independent recommendations and guidance for government on best regulatory practice including the role, remit and powers of a future regulator, and/or best practice models to be considered for the financial levy.
- It is also expected that a detailed business case would be developed as part of Phase Two to examine: - the range of regulatory models available (including any proposed changes to the Gambling Commission arising out of the forthcoming White Paper) and the Gambling Regulator in the south; the feasibility and Value for Money of having a standalone Regulator here; and other relevant issues such as funding, structures, functions and powers.
- As a guideline, the Gambling Commission has a staff of over 330, and it has an income of circa £19m directly from licence fees which covers its running costs.

Gambling Strategy

- The Minister agreed, in response to correspondence from the Chairs of 4 of the All Party Groups¹, to establish a cross departmental group to look at issues around reducing the harms caused by Gambling.
- The Group, comprising representatives from DoH (which has lead responsibility for treating gambling related harm, including health promotion) and DE (which has lead responsibility for Education) has met on two separate occasions.
- The group are considering the recommendations arising from the Report of the All Party Group on Reducing Gambling Related Harm, including the need for a cross departmental strategy.

¹ Robbie Butler MLA, Chairperson, All Party Group on Reducing Harm Related to Gambling; Cara Hunter MLA, Chairperson, All Party Group on Addiction and Dual Diagnosis; Orlaithí Flynn MLA, Chairperson, All Party Group on Suicide Prevention; and Mark Durkan MLA, Chairperson, All Party Group on Mental Health

- The Westminster Government has announced its intention to develop a UK-wide Addiction Strategy, which would include gambling addiction. It is not clear how such a Strategy would operate, given that Health is a Devolved matter for all 3 Devolved Administrations. It is assumed that if the Strategy is developed on a UK-wide basis then there will be a Barnett Consequential to fund activities.
- DoH officials are liaising with Department of Health and Social Care (London) officials about their plans, but as yet, there is nothing definite to report.

Clause 3 - Sunday working in licensed office

A Member queried if the DfE will have to make any changes to its law due to proposed Sunday working? Officials stated that it was their understanding that this Bill and the 1985 Order are in line with current employment legislation.

Please confirm that understanding in the response to this letter.

Answer

- We confirm that there is no need for DfE to make or amend any of their legislation.
- Our Minister obtained the agreement of the (then) DfE Minister to amend our Schedule 8A in the 1985 Order which confers the same rights for these workers as those which exist already for workers at Race courses, Dog tracks or Amusement Arcades.
- Clause 3 amends Schedule 8A of the 1985 Order which states clearly at paragraph 1 (5) "This Schedule shall be construed as one with the Employment Rights (Northern Ireland) Order 1996 (NI 16), referred to in this Schedule as "the Employment Rights Order".
- Workers' Rights are contained within a range of employment legislation but mainly within [The Employment Rights \(Northern Ireland\) Order 1996 \(legislation.gov.uk\)](http://legislation.gov.uk).
- We are satisfied that sufficient protections exist by virtue of the amendment to Schedule 8A in Clause 3 of the Bill to the Betting, Gaming, Lotteries and Amusements (NI) Order 1985.

Clause 4 – Pool betting

No queries were raised by the Committee.

Clause 5 - Persons who may participate in bingo at bingo club

No queries were raised by the Committee.

Clause 6 - Days when bingo and use of gaming machines permitted on bingo club premises

Committee queried the rationale for this Clause and Officials highlighted that it is intended to allow bingo to take place on Sundays and Good Fridays and amend the anomaly so that gaming machines in bingo clubs are made available on those days as arcades can open on those days.

The discussion widened into illegal gaming machines found in taxi depots, takeaways etc.

Please confirm in response to this letter that the Bill is not dealing with these illegal machines.

ANSWER

Bingo Opening Hours

- As stated above (Clause 2) the policy intention is to primarily:-
 - Remove the prohibition on commercial Bingo Halls opening on Sundays to bring them into line with other gambling operators who are permitted to operate on Sundays on race-courses, dog tracks and in licensed amusement arcades; and
 - To ensure fairness for land based operators against online operators who can operate 24 hours per day 365 days per year.
- Officials are not aware of any policy reason why Bingo Halls should not be permitted to trade on Sundays given that other retail and leisure outlets are permitted to open.
- As regards permitting opening on Easter Sunday – this is in line with what happens in other jurisdictions.
- We were advised by the industry (by operators who have bingo halls in Britain) that Sunday is their busiest Bingo night.
- The facility to play bingo online already exists, and operated during lockdown when commercial bingo halls were closed down.

Gaming machines in taxi depots etc.

- Only the Courts can give a definitive interpretation of the law, however, Part 111 of the 1985 Order sets out the law around gaming machines.
- However, the Department's understanding of the law is that Gaming machines are **not permitted** in fast food restaurants or taxi depots in **any** circumstances.
- Article 95 (1) of the 1985 Order states:-
 - General restriction on use of gaming machines***
 - 95.—**(1) No gaming machine shall be used for gaming except—
 - (a) subject to Article 105, on the premises of a registered club; or
 - (b) subject to Article 107, on the premises specified in Article 108(1); or
 - (c) as an incident of an exempt entertainment to which Article 122 applies.
- Articles 95, 105, 107, 108 and 122 of the 1985 Order allow amusement with prizes (AWP) machines to be used in:-

- amusement arcades and similar premises which have been granted an amusement permit for the purposes of Article 108(1) (c) or (1) (ca) of the 1985 Order by the local district council;
 - commercial bingo clubs licensed by the courts and for which the court has given a direction under Article 63(9) or 68(6) (a);
 - licensed bookmaking offices;
 - the bar areas of public houses and licensed hotels;
 - Registered Clubs; and
 - travelling showmen's pleasure fairs.
- Article 81 of the 1985 Order prohibits anyone from supplying a gaming machine unless they hold a Gaming Machine Certificate (or in the case of a single transaction – a gaming machine permit).
 - Article 129 allows a landlord to evict a tenant or occupier of any premises who is convicted of allowing the premises to be used for the purpose of gaming.
 - Officials consider that there are sufficient powers within the 1985 Order to allow for enforcement action to be taken against such premises by the PSNI.

Committee queries around a register of purchasers of gaming machines led to Officials stating that work was ongoing to locate the information from the Court Service. A Member queried if the Bill should have a clause which would lead to improved collection of data. Officials stated that DfC is having conversations with its statisticians to see what would be possible in the future and that Minister has written to HMRC to see if access can be given to gambling duties paid etc. to inform the next Phase of reforms. Also access to GGY, profits made, numbers of people/players etc.

Please provide the information from the Court Service as soon as it is available and please confirm in writing the range of data gathering the Department is hoping to be able to do to inform the second Phase of reforms.

- Best practice in policy making and legislation is that any new policy or legislation should be underpinned by data collection, monitoring and evaluation.
- Discussions have been ongoing with Professional Services Unit (PSU) within the Department about the type of data that needs to be collected; how it can be gathered and what baselines should be used in future.
- A prevalence study was scheduled for 2021 but has been postponed owing to Covid – no Face to Face surveys are currently being undertaken.
- Separately, PSU are having discussions with their colleagues in DoH – as there is limited information about the numbers of people presenting to services reporting gambling as a primary cause of addiction or poor mental health.

- Discussions are also taking place with colleagues in the south and in the Gambling Commission with a view to 'piggy-backing' on any surveys or research being undertaken in those jurisdictions.
- PSU are exploring the options for having a set of questions included within surveys such as Young Persons Behaviour and Attitudes Survey aimed at 11-16 year olds, and also the Continuous Household Survey (over 18s). As stated above, these surveys are currently suspended owing to Covid.
- Article 177 of the 1986 Order allows us to request returns from the Courts about the number of licences or permits issued; the number revoked (as a result of conviction of an offence) and other information as required. This information is currently being collated and we will provide the Committee with a copy as soon as all returns have been received.
- Discussions will then take place with Court Service about how this information could be better collated and interrogated – for example – licences by postcode; the number of gaming machines specified on the permit etc.
- Minister recently wrote to the Treasury Minister seeking a copy of any useful data that HMRC might hold – for example – the amount of gaming duties paid by operators here or the number of machines from which gaming duty is collected. A response was received on 14 January. HMRC claim that such data is not available below UK level and that in any event, it has no powers to allow us to have access to that information.
- Research and statistics will form an integral strand of the proposed Phase 2 reforms, but other Departments, in particular DoH, will need to also invest in research around treatment models, and, if DoH does adopt a public health approach – then evidence -based public information campaigns.
- Further discussions will also need to take place with HMRC to allow us access to tax data (gaming duties).

Clause 7 - Offence of inviting, etc. person under 18 to play gaming machine

A Member queried how a 'grab machine' could have money wrapped around a prize as under 18's play these machines in shopping malls etc. Officials confirmed that was illegal and they were working on a voluntary basis to eradicate that.

Please advise Committee in your response what work has been done in that regard.

ANSWER

- It is for the Courts to provide a definitive interpretation of the law, but 'grab' machines with prizes in excess of £8 should not be accessible to children under 18 years.
- There are different kinds of 'Grab machines' which, if they are based on chance rather than skill, would in our view fall within the terms of the 1985 Order as an Amusement with Prizes (lower) machine.

- The maximum stake for an Amusement with Prize lower limit machine is 30 pence and the maximum value prize is £8. (Article 108(7)). There are three options for payment of the prize: –
 - up to £8 in cash; or
 - a non-monetary prize or tokens exchangeable for a non-monetary prize of up to £8 in value; or
 - a combination of a cash prize and a non-monetary prize; or
 - tokens exchangeable for such a combination up to a total value of £8.
- Another type of ‘Grab’ machine is one in which the maximum prize can be up to £25. The prize must be paid directly from the machine in cash (Article 108(7A), (8) and (8A)); the maximum stake per game is 30 pence.
- There are no restrictions in the 1985 Order specifically on the **use** of gaming machines by children. There are, however, restrictions on the **access** of under 18 year olds to certain premises in which gaming machines may be available for use: -
 - under 18s must not be admitted to licensed bookmaking offices; this prohibition does not apply to a young person who has reached the upper limit of compulsory school age and is apprenticed to the licensed bookmaker (Article 50);
 - in amusement arcades and similar premises holding an Article 108(1)(ca) amusement permit, under 18s must not be admitted to premises or parts of premises in which £25 prize machines are pe (Articles 111(6A) and 115(7A)).
- The purpose of this Clause 7 is to introduce a new offence of inviting, causing, or permitting a person under 18 years to play anything other than a lower limit gaming machine (i.e. £8 max prize value machine).

A member queried why there were no notices on the front of gaming machines regarding the law on max. prizes and legal age to play the machine?

Please advise the Committee if this is something that could be done in this Bill or through more detail being provided in the Code of Practice.

ANSWER

- There are no requirements to display such notices on machines. There are, however, requirements for notices to be displayed both outside and inside premises where high stakes gaming machines are located.
- The granting of an Amusement Permit by the Council is subject to strict conditions and requires physical barriers to be in place in premises where machines for over 18s are located as well as a notice to be displayed on the entrance and inside the premises. See extract from Article 111 of the 1985 Order :-

(6A) Without prejudice to any condition in paragraph (5)(a) or (6)(b), where a district council grants an amusement permit for the purposes of Article 108(1)(ca), it shall be subject to the conditions—

(a) in the case of premises where admission is restricted to persons aged 18 or over,—

(i) that no person under 18 is admitted to the premises; and

(ii) that at any entrance to, and inside any such premises there are prominently displayed notices indicating that access to the premises is prohibited to persons aged under 18; and

(b) in the case of premises where admission is not restricted to persons aged 18 or over—

(i) that any machine in respect of which the condition mentioned in Article 108(8) is observed is located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access otherwise than by means of an entrance designed for the purpose;

(ii) that only persons aged 18 or over are admitted to an area of the premises in which any such machine is located;

(iii) that access to an area of the premises in which any such machine is located is supervised;

(iv) that any area of the premises in which any such machine is located is so arranged as to permit all parts of it to be observed; and

(v) that at any entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons aged under 18.

- The Code of Practice (Page 12) as currently drafted also has this requirement for a notice to be displayed both outside and immediately inside the premises or locations where high stake gaming machines are played.
- If the Committee wish, we can amend the Code of Practice to require a notice to be displayed on the machine or, where it is not physically possible to include such notices on the face of the machines owing to the design of the screen/display monitor, close to the machine where it would be visible.
- We believe that the new Article 124A inserted by Clause 7 of the Bill (the offence of inviting, causing or permitting an under 18 to play a high stake gaming machine) will strengthen the existing protections for under 18s.

Clause 8 - Arrangements not requiring persons to pay to participate

The discussion centred on the two key issues of promotional prize draws and prize competitions and Members wish it to be clear in the Bill that companies can include NI residents in such draws and competitions and that it is not illegal. The Department shares that view.

Officials highlighted that Clause 8 is setting out removing the requirement to pay but that further thinking maybe required around these matters.

Please update the Committee on what further actions/wording could be included in the Bill to respond to the concerns raised by the Committee.

ANSWER

- As the law stands at present, the conduct of any prize competition in which success does not depend to a substantial degree on the exercise of skill is prohibited. Under Part IV of the 1985 Order, any competition arrangement is deemed to be a lottery if participants are required to pay to participate.
- **Promotional Prize Draws** which require the purchase of a product (e.g. a chocolate bar or newspaper) or use of a service (such as taking out a bank or building society account) to qualify for entry into a prize draw or competition could technically be construed as a form of payment to participate. Hence, it would constitute an illegal lottery. This is because these draws etc. do not fall within any of the permitted lottery categories set out in Part IV of the 1985 Order.
- Clauses 8 and 11 make express provision for circumstances in which arrangements should not be deemed as payment to participate. Schedule 15A of the Bill sets out those circumstances in more detail.
- Clause 8 amends Article 131 (illegality of lotteries) to make it clear that free draws are to be excluded from this clause and the proposed new Schedule 15A sets out what is or isn't considered as payment to enter.
- For ease of reading, we have reproduced below how Article 131 should read, assuming Clause 8 is approved:-
 - **Illegality of lotteries**

131. (1) Subject to the provisions of this Part and paragraph 6(1) of Schedule 20 and to section 2(1) of the National Lottery etc. Act 1993, all lotteries which do not constitute gaming are unlawful.

(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.
- **Prize Competitions** in which success does not depend to a substantial degree on the exercise of skill are prohibited under Article 168. For ease of reading, Clause 11, which amends Article 168 (prize competitions) is reproduced below as amended by Clause 11:-

Prize competitions

168.—(1) Subject to paragraphs (2) and (2A), it shall be unlawful to conduct in or through any newspaper, or in connection with any trade or business or the sale of any article to the public—

(a) any competition in which prizes are offered for forecasts of the result either—

(i) of a future event; or

(ii) of a past event the result of which is not yet ascertained, or not yet generally known;

(b) any other competition in which success does not depend to a substantial degree on the exercise of skill.

(2) Nothing in paragraph (1) with respect to the conducting of competitions in connection with a trade or business shall apply in relation to totalisator or pool betting operations carried on by a person whose only trade or business is the carrying on of such operations.

(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.

(3) Any person who contravenes this Article shall, without prejudice to any liability to be proceeded against under Article 132, be guilty of an offence.

- On balance, officials believe that further clarification or amendment of the clauses is not needed. This is mainly because Schedule 15A reads more straightforward than the clauses and should make it clear that what constitutes payment to enter.
- As stated at Committee, it is ultimately for the Companies involved to make the decision whether or not to change their position on allowing residents here to enter such draws.

Clause 9 - Rules for societies' lotteries

Committee recognise that this clause needs careful consideration due to the potential impact on organisations that wish to raise money this way. Officials highlighted that the Minister wishes to raise the maximum prize limit from £25,000 (which was significant in 1985 but not any longer) by secondary legislation.

Committee request sight of draft regulations as soon as they are available.

A Member queried if the Bill was sufficient in how it dealt with the calculation of the prize fund and referred to Article 137(14).

Committee request clarification on that issue in the response.

ANSWER

- Officials confirm they will provide drafts of the secondary legislation as soon as possible. It is expected that Secondary legislation will amend both the maximum prize limit and the maximum proceeds.
- The policy intention behind stipulating limits on spending on prizes and expenses is to maximise the amount of money that can be raised for good causes.

- For ease of reading, Article 137 (Rules for Societies Lotteries) is reproduced at **Appendix 1** as amended by Clause 9.

Prize

- Article 137 (11) currently states that the maximum amount or value of the prize is £25k, or 10 per cent of the proceeds of the lottery (whichever is greater).
- Article 137 (13) states that no more than 50 per cent of the proceeds can be used for prizes.

Calculation of Expenses

- Article 137 (14) states that the amount of the proceeds that can be claimed as expenses **excludes** the amount spent on prizes and is either the **actual** expenses occurred (such as cost of printing tickets/advertising/ hiring a lottery manager etc.) **or** 20% of the whole proceeds.
- Because there is a limit of spend of 50 per cent of the proceeds on prizes, then expenses capped at 20% of the whole proceeds should not put any society at a disadvantage or out of pocket.
- So to take an example- a society runs a draw where the only prize is a car valued at 40k. The whole proceeds (i.e. total value of all tickets sold) is 80k. The total expenses excluding the prize cost printing tickets and advertising is 10k. So in this case, 20% is 16k but as less than this was spent, the full expenses are covered as is the cost of the car as it did not exceed 40k (50%).
- On reviewing all the information and Article 137 in more detail, officials do not believe that any further revision is needed.

A Member queried why the Bill is repealing the limit on the ticket price completely and would a new enhanced limit not be better?

The Officials stated that it was a good point and the Minister was minded to look at an amendment in this regard. However, the sector is divided on what the limit should be.

Committee requests that the Department re-look at this clause in this regard and consider a new limit and respond on this issue.

ANSWER

- Having listened to all the evidence presented and to the views expressed by members, the Minister is minded to accept an amendment setting a new ticket price and would welcome views from the Committee on what this limit should be.
- The sector are divided on this issue and some argue for no ticket price limit (as is the case in other jurisdictions) whilst others argue for a limit of £100-£150.
- Some clubs and charities run draws where there are smaller prizes every month and a major prize in month 12 such as a Car. Such tickets can then be paid off in monthly instalments which doesn't put people under as much pressure to purchase. This type of

draw enables clubs and charities to have a reasonably secure income source and allows them to plan activities based on this income.

- As stated above, the Minister intends to increase the maximum prize limit as well as the limits on whole proceeds (total value of ticket sales) through secondary legislation.

Clause 10 - Qualifications by age, residence or corporate status for licences, certificates and permits

No queries were raised by the Committee.

Clause 11 - Prize competitions not requiring persons to pay to participate

Members raised concerns that although you may not pay to enter certain competitions you are providing data that is valuable to organisations.

A Member reiterated concerns that the Bill may still not be clear enough at Clauses 8 and 11 on the issues regarding promotional prize draws etc.

Committee still considering the issues around this Clause and Clause 8.

ANSWER

- As the law stands at present, the conduct of any prize competition in which success does not depend to a substantial degree on the exercise of skill is prohibited. Under Part IV of the 1985 Order, any competition arrangement is deemed to be a lottery if participants are required to pay to participate.
- **Promotional Prize Draws** which require the purchase of a product (e.g. a chocolate bar or newspaper) or use of a service (such as taking out a bank or building society account) to qualify for entry into a prize draw or competition could technically be construed as a form of payment to participate. Hence, it would constitute an illegal lottery. This is because these draws etc. do not fall within any of the permitted lottery categories set out in Part IV of the 1985 Order.
- Clauses 8 and 11 make express provision for circumstances in which arrangements should not be deemed as payment to participate. Schedule 15A of the Bill sets out those circumstances in more detail.
- Clause 8 amends Article 131 (illegality of lotteries) to make it clear that free draws are to be excluded from this clause and the proposed new Schedule 15A sets out what is or isn't considered as payment to enter.
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(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.

- **Prize Competitions** in which success does not depend to a substantial degree on the exercise of skill are prohibited under Article 168. For ease of reading, Clause 11, which amends Article 168 (prize competitions) is reproduced below as amended by Clause 11:-

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(i) of a future event; or

(ii) of a past event the result of which is not yet ascertained, or not yet generally known;

(b) any other competition in which success does not depend to a substantial degree on the exercise of skill.

(2) Nothing in paragraph (1) with respect to the conducting of competitions in connection with a trade or business shall apply in relation to totalisator or pool betting operations carried on by a person whose only trade or business is the carrying on of such operations.

(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.

(3) Any person who contravenes this Article shall, without prejudice to any liability to be proceeded against under Article 132, be guilty of an offence.

- On balance, officials believe that further clarification or amendment of the clauses is not needed. This is mainly because Schedule 15A reads more straightforward than the clauses and should make it clear that what constitutes payment to enter.
- As stated at Committee, it is ultimately for the Companies involved to make the decision whether or not to change their position on allowing residents here to enter such draws.

Data Collection

- On the point raised about data collection and companies selling on data, officials believe this would be out of scope of this Bill.
- Further, when anyone uses, for example, a comparison website to search for car insurance or other products, quite often the data is sold on. This is common practice though not necessarily considered good practice.

Clause 12 – Cheating

A Member queried the penalty associated with the offence in this Clause. Officials stated that these are on a set scale and there is unlikely any room to alter this but they would check this.

Please confirm in your response to this letter what the convention is in this regard.

ANSWER

- Fines and penalties are based on what is called a Standard Scale and this is set out in Orders see here:- [The Fines and Penalties \(Northern Ireland\) Order 1984 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Before setting the penalty attached to the new offence, officials liaised with colleagues in Department of Justice who are responsible for the law on offences and penalties to make sure that the tariff being applied was appropriate and proportionate. DoJ confirmed that it was both proportionate and appropriate.
- Members might be interested to know that a similar offence in the Gambling Act 2005 (Section 62) in Britain carries a Level 5 fine and a prison term of up to 51 weeks or both :-
62 Penalty
 - (1) A person guilty of an offence under this Part shall be liable on summary conviction to—
 - (a) imprisonment for a term not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
 - (2) But in relation to an offence committed by a young person subsection (1) shall have effect as if—
 - (a) paragraphs (a) and (c) were omitted, and
 - (b) in paragraph (b) the reference to level 5 were a reference to level 3.
 - (3) In the application of subsection (1) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Clause 13 - Enforceability of gambling contracts

No queries were raised by the Committee.

Clause 14 – Industry levy

A Member was concerned regarding the wording of the Clause at 172A(6) around which groups would be consulted on the levy and should the industry be consulted at all? The Officials agreed that it could indeed be better worded.

Committee request that Department provides improved wording proposal for this part of the clause.

ANSWER

- Although a requirement to consult with other interested parties such as the Health Sector was not included within the provision, it would always have been the policy intention to consult with other interested parties including the health sector and relevant voluntary organisations.
- Best practice in policy making includes consultations with all stakeholders who represent the interests of those impacted by any policy or legislative proposal. Whilst we understand why some people might argue against the industry being consulted, we believe that they should be allowed to express their views as part of a wider consultation with all other interested parties such as health, voluntary sector etc.
- Having listened to the evidence presented to Committee and to the concerns expressed by members, Minister is minded to accept an amendment which expands the requirement to consult as suggested by Committee.

Members expressed concern regarding the National Lottery (NL) terminals and scratch cards being such a large part of gambling in NI and part of the addiction issues in NI and queried if NL would be part of a levy. Officials stated that the NL is legislated for by Westminster and cannot be part of this Bill.

Answer

- National Lottery is a Reserved Matter and therefore we cannot legislate around issues such as product placement, location of terminals or levy.

Clause 15 – Code of practice

A few queries were raised, including putting a credit card ban in the Bill and Officials stated that it would not be good practice to put such items on face of the Bill but would be better in the Code of Practice (CoP) and highlighted that in England it is a condition of licence to adhere to the CoP.

Committee requests that Officials go through the Code of Practice in more detail on Tuesday 18th January.

Answer

- Officials will brief Committee on the contents of the Code of Practice on Tuesday 18th January.

Schedule – 15A to the 1985 Order

Committee request that Departmental Officials return on Tuesday 18th January to go over the Schedule in some more detail, what it does and the connections to Clause 8 and 11.

Answer

- Officials will discuss in more detail Schedule 15A and the relevant clauses.

Extract from 1985 Order as amended by this Bill

Rules for societies' lotteries

137.—(1) In this Article “lottery” means a society's lottery.

(2) The promoter of the lottery shall be a member of the society authorised in writing by the governing body of the society to act as the promoter.

(3) Every ticket distributed or sold shall specify the name of the society, the name and address of the promoter and the date of the lottery.

(4) The Department may, by order subject to affirmative resolution, specify—

(a) the maximum number of lotteries that may be promoted on behalf of the same society in any year; and

(b) the minimum number of days that must elapse between the dates of any two lotteries promoted on behalf of the same society.

(6) The price of every ticket or chance shall be the same, and the price of any ticket distributed or sold shall be stated on the ticket.

(7) No person shall be admitted to participate in a lottery in respect of a ticket or chance except after payment to the society of the whole price of the ticket or chance; and no money received for or on account of a ticket or chance shall in any circumstances be returned.

(8) The price shown on every ticket shall be the whole price paid for it.

(9) The total proceeds from the sale of tickets or chances shall constitute the whole proceeds of the lottery.

(10) Subject to the conditions governing the lottery, participation in the lottery shall depend solely on the purchase of a ticket or chance in it.

(11) No prize in a lottery shall exceed in amount or value £25,000 or 10 per cent. of the proceeds of the lottery (whichever is greater).

(12) The total value of the tickets or chances sold in a lottery shall not exceed £80,000 for any single lottery or £1,000,000 for all the lotteries promoted by any society in any year.

(13) The amount of the proceeds of a lottery appropriated for the provision of prizes shall not exceed 50 per cent. of the proceeds of the lottery.

(14) The amount of the proceeds of a lottery appropriated on account of expenses (exclusive of prizes) shall not exceed whichever is the less of—

(a) the expenses actually incurred; or

(b) 20 per cent of the whole proceeds of the lottery.

(15A) For the purposes of paragraph (14), the amount of any expenses that are met—

(a) by the society on whose behalf the lottery is promoted, or

(b) by any beneficiary of the lottery,

shall be treated as having been appropriated on account of expenses from the proceeds of the lottery.

(15B) In paragraph (15A) “beneficiary of the lottery” means a person (other than the society on whose behalf the lottery is promoted) to whom or for whose benefit any of the proceeds of the lottery, other than amounts appropriated in respect of expenses or prizes, are lawfully paid or applied.

(15C) The amount of the proceeds of a lottery appropriated for the provision of prizes and the amount of those proceeds appropriated on account of expenses (exclusive of prizes) shall not exceed in aggregate such percentage of the whole proceeds of the lottery as the Department may specify, by order subject to affirmative resolution.

(16) A society shall not employ any person as an external lottery consultant or manager unless that person holds a lottery certificate.

(17) The promoter of a lottery shall, not later than the end of the third month after the date of the lottery, send a return in such form and containing such information as regulations may prescribe to such persons as may be so prescribed.

(18) Every registered society shall keep copies of any return sent under paragraph (17) together with copies of supporting bills, receipts and accounts for a period of at least 18 months and during that period shall supply, on request, a copy of that return and these other documents to the district council or any member of the Royal Ulster Constabulary.

(19) Any officer of a district council authorised in writing in that behalf may, on production, if required, of his credentials, at any reasonable time, enter any office of a registered society and—

(a)inspect the records of the society; and

(b)inspect the promotion of any lottery.

(20) Every person who obstructs an officer of a district council in the exercise of the powers conferred by paragraph (19) shall be guilty of an offence.

(21) The Department may, by order subject to affirmative resolution substitute for any amount or percentage specified in this Article such other amount or percentage as may be specified in the order.

Ends