

# Response ID ANON-T16K-FZVR-E

Submitted to Betting, Gaming, Lotteries and Amusements (Amendment) Bill - Call for evidence and views  
Submitted on 2021-11-25 19:06:42

## Introduction

1 How would you like your response to be published?

I would like my response to be published.

2 Are you content that any of your suggestions which have been published to the Committee or the Assembly may inspire the text of an amendment?

Yes

3 What is your name?

Name:  
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4 What is your email address?

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5 Please indicate if you are providing a response:

On behalf of a organisation or business

If on behalf of an organisation or business, please state its name::

This response is submitted on behalf of the Northern Ireland Turf Guardians' Association ("NITGA"). NITGA represents the interests of retail ("land-based") bookmakers in Northern Ireland with a membership comprising large national operators, medium-sized regional chains, small independent and single shop operators. There are c. 295 betting shops trading in Northern Ireland and NITGA members account for approximately 265 of these. Land-based bookmakers employ approximately 1500 people in Northern Ireland and the economic value of this employment to the local economy is estimated to be almost £29 million per annum.

## Policy objectives of the Bill

6 Do you think that the Bill will meet its overall policy objectives to: address a number of specific anomalies with regard to the current regulation of land based betting, gaming, lottery and amusement activities and to strengthen existing regulatory protections for operators and consumers as well as young people and those who may be vulnerable to gambling harm?

Other

Please explain your answer:

NITGA welcomes the overall policy objectives associated with the Bill, as introduced. The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 has served the industry and the public well to a large extent; however, it does not take account of new developments within the betting industry and evolving social and technological trends. It is therefore essential that Northern Ireland develops a flexible legislative framework in place which meets changing circumstances without the need for frequent amendment of the law. NITGA agrees that, in this context, there is a need to address specific anomalies with regard to the current regulation of land-based betting.

The Bill, as introduced, deals effectively with some existing anomalies such as removing the prohibition for bookmaker shops to open on a Sunday. However, at the same time, the Bill seeks to introduce provision for a statutory levy which is only capable of applying to land-based betting, gaming, lottery and amusement operators. Thus, an entirely new anomaly will be created in respect of land-based betting unless provision can be made to capture online/mobile betting operators and the National Lottery. There are currently fewer retail betting shops in Northern Ireland than at any time in the past 25 years and Northern Ireland remains protected from the 'clustering' of bookmakers seen in Great Britain. The 'demand test', as applied by the courts, is the mechanism that determines the maximum number of bookmaking premises in any given locality and whether this remains within socially acceptable and legally manageable limits; however, the decline in local betting shop numbers is attributable to changing consumer trends towards online and mobile gambling operators. Further, the 2016 Northern Ireland Prevalence Survey produced by the Department for Communities identified three of the four most common types of gambling in Northern Ireland to be 'National Lottery' (46.8%), 'scratch cards or instant win' (23.7%) and 'other lottery, raffle and ballot' (20.6%). The significance of this form of gambling in respect of gambling prevalence is highly notable, yet the National Lottery and its plethora of new draws, higher value scratch cards/Instants, and suite of online and mobile play options, remains largely absent from any legislative focus or contribution to promoting social responsibility and addressing problem gambling.

We acknowledge that law should be strict and efficient protecting vulnerable people, promoting fairness and at addressing and preventing criminality. To achieve this, the legislative framework must embrace new developments so that any increasing or additional demand can be satisfied through the

appropriate channels. Updated legislation must recognise that retail betting is no longer the dominant form of gambling with the rapid growth of online and mobile gambling options and customer spending in this area over recent years, some of which is taking place in an unregulated environment which presents a much greater risk to the vulnerable than retail betting. All forms of gambling, including online betting platforms, amusement centres, commercial bingo clubs and the National Lottery must be held to the same level of regulation and must contribute proportionately to addressing problem gambling. Retail bookmakers represents less than a quarter of the gambling activity in Northern Ireland and are the only operators within the local gambling sector contributing directly to support services for the treatment of problem gambling, having done so for many years on a voluntary basis to Dunlewey Addiction Services.

While we recognise that not all sections of society will actively support proposals which allow greater freedom and choice for individuals to gamble in new ways, times or in places that are not currently permitted; a failure to recognise the risks of not doing so, only serves to force certain elements of gambling to be conducted unfairly and covertly, exposing customers to criminality and failing to protect children and the vulnerable from being exploited. To that end, NITGA contends that it is better to bring all forms of gambling within the licensed perimeter to be appropriately controlled and taxed and as a responsible industry, and we support proposals to liberalise gambling within that regulated environment. We believe that increasing choice can, as well as giving customers more options and levelling the competitive playing field between the high street and the internet, also be a useful part of reducing illegal gambling.

The reality is that people will gamble regardless of whether governments operate a liberal or prohibitive regime. NITGA contends that a licensing regime which appropriately enables all forms of gambling required by customer preference and ensures that consumer requirements are fully met by legitimate licensed operators is the most appropriate system of regulation. We believe that all gambling that occurs legitimately should be licensed and bound by the same legislative framework supported by strong enforcement and meaningful penalties for illegal activity.

7 Do you foresee any unintended consequences of any of the policy objectives of the Bill?

Yes

Please explain your answer:

As noted in response to question 6, there is an apparent conflict between the policy objective to address a number of specific anomalies with regard to the current regulation of land based betting, gaming, lottery and amusement activities and, at the same time, introduce provision for the introduction of a statutory levy which will only apply to land-based operators and does not capture online/mobile operators or the National Lottery.

Clauses 1, 2 and 3

8 Clause 1: "Interpretation": confirms that all references to "the 1985 Order" within the Bill mean the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985. Do you have any comments on this?

Comments on References as per Clause 1:

NITGA has no comments in respect of Clause 1.

9 Clause 2: "Opening of licensed offices on Sunday and Good Friday". Do you agree with this clause, which amends Article 31 of the 1985 Order to allow licensed offices to be opened for the transaction of business on Sundays and Good Fridays, but not on Christmas Day including Christmas Days which fall on a Sunday?

Yes

Please explain your answer:

NITGA supports Clause 2 which amends Article 31 of the 1985 Order to allow licensed offices to be opened for the transaction of business on Sundays and Good Friday.

Sunday Opening

NITGA supports the introduction of new powers to permit Sunday opening as a key area for demand led growth of the industry in Northern Ireland. In 2009, it was estimated that the economic impact of the relaxation of Sunday restrictions on betting and gaming law would have a positive impact on the economy with the creation of 161 full time equivalent jobs and an estimated total gross value added (GVA) figure of £32m to the Northern Ireland economy by year five; and, in addition, an estimated £4.2m per year is spent on illegal gambling in Northern Ireland on a Sunday due to the restriction on opening. (PwC, 'Economic Impact of the Relaxation of Sunday restrictions on Betting and Gaming Law', September 2009).

There are many racing and other sporting fixtures which take place on Sundays and demand for betting is therefore met elsewhere rather than negated by the prohibition.

Betting already takes place legally on a Sunday in Northern Ireland in a variety of ways:

- a. On-course betting has been permitted in Northern Ireland since 2004.
- b. Amusement permits granted by Councils in Northern Ireland permit the operation of gaming machines in amusement arcades with no restriction on opening hours.
- c. Online betting, mobile betting, the National Lottery (including its plethora of new draws, higher value scratch cards/Instants, and suite of online and mobile play options) are also accessible to customers on a 24/7 basis.

Sunday opening has been permitted in bookmaker shops in the Republic of Ireland since 1999 and Great Britain since 1995. The inability for customers to place bets in a bookmaker's shop on a Sunday in Northern Ireland has driven customers towards the illegal operators in pubs and clubs or across the border. Restriction on Sunday opening reduces customer choice and prevents those who wish to legally bet in cash from doing so within a fully controlled environment and without access to credit, both of which are particularly important in protecting the vulnerable.

Sunday is one of the most important sporting days of the week, and market forces dictate that this demand is met. In 2009, PwC estimated the local economy could benefit from additional employment, potentially upwards of 160 new jobs (full time equivalent), plus investment opportunities, and the exchequer will receive up to £32m by year five from various associated forms of taxation; and, in addition, it is estimated that £4.2m per year is currently being spent on illegal gambling in Northern Ireland on a Sunday due to the current restriction on opening.

In Great Britain, illegal gambling in pubs and clubs has reduced to negligible levels, due mainly to the deregulation which allowed licensed betting shops to open on Sundays and into the evenings all year round. Conversely, betting shops in Northern Ireland remain closed on Sundays and illegal gambling activity has grown.

As Northern Ireland remains the only part of the UK and Ireland where the prohibition of Sunday opening of betting shops is imposed, businesses here are placed at a distinct disadvantage to neighbouring competitors. Sunday is one of the busiest days of the week for bookmakers in the Republic of Ireland and there is also evidence that there is significant cross border betting activity currently taking place. It is estimated that approximately £1.1m per annum is staked by Northern Ireland customers in Republic of Ireland betting shops on a Sunday, which represents a significant loss to the Northern Ireland economy.

Employment and additional government revenue in addition to the vested economic interests of our members in being able to fairly compete with other jurisdictions, as well as eradicating the need for illegal betting, all point to the need for a pragmatic political approach on this issue. To retain the current position purely on moral or religious grounds is not only counterintuitive but potentially challengeable under Article 1, Protocol 1 of the European Convention on Human Rights relating to the protection of property rights, including commercial business. Given the prevalence of illegal gambling activity currently taking place on a Sunday due to the current restrictions, it is unlikely the continued ban on Sunday opening could be justified on public protection grounds.

NITGA members would view opening hours for bookmakers between 11.00am and 6.00pm as sufficient on Sundays to reflect the timings of racing and sporting fixtures.

Good Friday

NITGA supports amending the law to permit the opening of bookmaking shops on Good Friday. In Great Britain, betting shops have been permitted to open on Good Friday since 2008. There are many racing and other sporting fixtures which take place on Good Friday and demand for betting is therefore met elsewhere rather than negated by the prohibition.

10 Clause 3: "Sunday working in a licensed office". This clause will amend Schedule 8A of the 1985 Order to ensure that the rights of individuals employed in a licensed bookmakers' office will now mirror those of individuals who work at a track for a bookmaker with respect to Sunday working. Do you agree with this Clause?

Yes

Please explain your answer:

NITGA welcomes protection rights for those who, for religious reasons or otherwise, do not wish to work on Sundays.

11 Do you think Clause 3 will allow sufficient protection for those working on a Sunday in this industry?

Yes

Please explain your answer:

NITGA agrees that no member of staff should be penalised for religious reasons or otherwise for not wishing to work on Sundays. There are many racing and other sporting fixtures which take place on Sundays and demand for betting is therefore met elsewhere rather than negated by the prohibition. NITGA members would view opening hours for bookmakers between 11.00am and 6.00pm as sufficient on Sundays to reflect the timings of racing and sporting fixtures.

NITGA supports the retention of the prohibition of opening bookmaking offices and commercial bingo clubs on Christmas Day, even where Christmas Day falls on a Sunday.

Clauses 4, 5 and 6

12 Clause 4: "Pool betting". This clause will amend Article 44 of the 1985 Order to restrict any person, other than a registered pool promoter, from carrying on any pool betting business except at a licensed track and except by means of a totalisator operated in accordance with Article 45. Do you agree that it is right to restrict pool betting business to registered pool promoters?

Yes

Please explain your answer:

NITGA agrees it is right to restrict pool betting business to registered pool promoters.

NITGA further welcomes the proposed Article 44 amendment to place the operation of pool betting, such as Tote Direct, in bookmaking offices on a firm legal footing. Tote betting is a pool type betting where all wagers act on an event by event or betting type basis i.e. an accumulator over a number of races or legs, such as Placepot, Scoop 6 or Jackpot. Currently in Great Britain and Ireland totes operate both on course and within betting shops. The tote retains an agreed percentage which is retained by the British Horseracing Authority and Horse Racing Ireland respectively for the administration of tote, with the remaining amount of cash being divided into the number of winning tickets per event or bet type. Adopting a similar system in Northern Ireland will allow tote betting to be accepted as a normal bet type within betting shops.

13 Clause 5: "Persons who may participate in bingo at a bingo club". This Clause will amend Article 75 of the 1985 Order to ensure that only members of a bingo club and their guests are allowed to participate or take part in bingo at a bingo club premises. The amendment also means that members of the bingo club and their guests may also take part in bingo at the premises irrespective of any time elapsing since application for club membership was made. Do you agree with this cause?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

14 Clause 5 also removes the current exemption which allows cleaners or certain other employees of the bingo club as may be prescribed by regulations, to play bingo. Do you agree with this cause?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

15 Clause 6: "Days when bingo and use of gaming machines permitted on bingo club premises". Do you agree with this clause which will amend Articles 76 and 108 of the 1985 Order to allow bingo to take place and gaming machines to be made available on bingo club premises on Sundays and Good Fridays, but not on Christmas Day including Christmas Days which fall on a Sunday?

Yes

Please explain your answer:

NITGA supports parity for commercial bingo clubs in Northern Ireland as a failure to address the disparity promotes or encourages illegal options. Bingo should not, however, be viewed as a 'soft' form of gambling and the activity within commercial bingo clubs should be regulated accordingly with care taken to ensure that the legislative framework adequately provides for commercial bingo clubs to operate in a manner which does not make the activity of bingo ancillary to other forms of gambling such as gaming machines.

It should be noted that our membership is concerned that there are significant issues relating to illegal bingo operations operating in Northern Ireland that are under reported.

## Clauses 7, 8 and 9

16 Clause 7: "Offence of inviting, etc. person under 18 to play gaming machine". This clause inserts a new entry into the 1985 Order to create a new offence in relation to the playing of gaming machines by persons under the age of 18. Punishment can be imprisonment for 6 months. Do you agree with this new offence?

Yes

Please explain your answer:

The new offence appears to be primarily targeted towards establishments where under 18s are permitted attend. Article 50 of the 1985 Order already prohibits under 18's from bookmaker shops and it is a criminal offence to receive bets from under 18's pursuant to Article 51.

17 Clause 7: Do you agree with the proposed level of punishment?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

18 Clause 8: "Arrangements not requiring persons to pay to participate". This clause amends Article 131 of the 1985 Order and introduces a new Schedule 15A to the Order with the result that it removes free to enter prize competition arrangements from the definition of a lottery. Do you agree with the removal of free to enter prize competition arrangements from the definition of a lottery?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

19 Clause 9: "Rules for societies' lotteries". This clause amends Article 137 of the 1985 Order to remove the £1 ticket price for society lotteries – do you agree with this removal?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

20 Clause 9 will also amend Article 137 of the 1985 Order to alter the limit on the amount which may be appropriated for the expenses of a society lottery to 20% of the whole proceeds. Do you feel that this is an appropriate limit?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

## Clauses 10 and 11

21 Clause 10: "Qualifications by age, residence or corporate status for licences, certificates and permits". This Clause amends Articles 7, 61, 84 and 141 respectively of the 1985 Order to reduce the lower age limit from 21 to 18 years of age and remove the residency restrictions for grant of a bookmaker's licence, bingo club licence, a gaming machine certificate and permit and a lottery certificate. Do you feel that it is appropriate to lower the age limit from 21 years to 18 years of age in any or all of these categories?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing. We have not identified any significant issues with the current age restrictions in respect of the grant of a bookmaker's licence, bingo club licence, gaming machine certificate or permit or lottery certificate.

22 Clause 10: Do you feel that it is appropriate to remove the residency restrictions?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing. We have not identified any significant issues with the current conditions in respect of residency and incorporation for those wishing to enter the Northern Ireland gambling market.

23 Clause 10 also repeals Articles 7,61,84 and 141 to allow certain corporate bodies to hold a bookmaker's licence, bingo club licence, a gaming machine certificate and permit and a lottery certificate. Do you feel this is appropriate?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing. We have not identified any significant issues with the current conditions.

24 Clause 10 also amends Articles 109 and 155 respectively of the 1985 Order to allow a body corporate to hold an amusement permit or a pleasure permit. Do you feel this is appropriate?

Not Answered

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

25 Clause 11: "Prize competitions not requiring persons to pay to participate". This Clause introduces a new paragraph to Article 168 which specifies that a prize competition arrangement is not prohibited by Article 168 unless persons are required to pay to participate in the arrangement and refers to new Schedule 15A (Lotteries and Competitions: Requirements to Pay in Order to Participate) of the 1985 Order (introduced under Clause 8), as setting out what does and does not constitute a requirement to pay to participate in such an arrangement. Do you feel it is appropriate for there not to be a requirement to pay to participate?

Other

Please explain your answer:

NITGA adopts a neutral position on this issue neither agreeing nor disagreeing.

## Clauses 12 and 13

26 Clause 12: "Cheating". This clause will replace the existing offence Article 169 in the 1985 Order with a new Article 169 to make it an offence for any person to either cheat at gambling or do anything to enable or assist another person to cheat at gambling. Do you think this clause is sufficient to deal with the offence of cheating?

Other

Please explain your answer:

NITGA supports criminal prosecution where the definition of cheating is one of fraudulent and planned activity intended to deceive.

27 Clause 13: "Enforceability of gambling contracts". This clause repeals Articles 170 and 171 of the 1985 Order and will provide for contracts relating to gambling to be legally enforced without prejudice to any law which prohibits the enforcement of contracts on unlawfulness grounds. Do you think that it is appropriate that contracts relating to gambling are legally enforced?

Not Answered

Please explain your answer:

At present consumers in Northern Ireland can avail of dispute resolution via IBAS (Independent Betting Adjudication Service). Northern Ireland customers remain in a unique position as the 1985 Order provides that any contract involving gambling is void and no legal action should be taken to recover any money won or paid on a wager.

NITGA considers that further detail and consideration of this area may be required as a holistic approach in conjunction with other consumer protection methods. There are both benefits and drawbacks to consumer protection in respect of the current position and careful consideration will be required to strike the appropriate balance for both consumers and the industry in effecting any changes.

## Clause 14

28 Clause 14: "Industry Levy". This Clause inserts a new Article 172A (Industry Levy) into the 1985 Order to will allow the Department to make regulations with regard to the payment of a levy to the Department by every person who intends to apply for the grant or renewal of a bookmakers' licence, bookmaking office licence, bingo club licence, gaming machine certificate or permit and amusement permit. Do you think that is right to introduce such a levy?

Other

Please explain your answer:

Betting is now widely accepted as a legitimate adult leisure pursuit and licensed bookmakers provide an excellent service, provide employment and contribute to local communities. The vast amount of people can control their gambling safely and view betting shops as an enjoyable leisure pursuit.

NITGA has no difficulty in principle with contributing to help fund research, education and treatment of problem gamblers, however we note that there is no such suggestion of such contributions being made in other industries such as alcohol.

Northern Ireland retail bookmakers currently pay a voluntary levy which directly funds support for problem gamblers locally and this approach should be developed and proportionately applied to all gambling operators in Northern Ireland without need for a statutory levy.

The Northern Ireland Assembly has no legal jurisdiction in respect of online gambling operators or the National Lottery meaning that any statutory levy could focus only on land-based operators which is entirely disproportionate.

According to the 2016 Northern Ireland Gambling Prevalence Survey, betting on a sport or event accounts for 22.8% of gambling activity. The vast amount of people can control their gambling safely and view it as an enjoyable leisure pursuit. However, bookmakers in Northern Ireland do take a serious approach to problem gambling both in our licensed and regulated betting shops and through our longstanding engagement with organisations which cater for problem gamblers, such as Dunlewey Gambling Advice Service.

Dunlewey Addiction Services is Ireland's leading addiction treatment organisation and has an established partnership with GamCare as the provider of gambling addiction counselling services in Northern Ireland. In an effort to ensure all voluntary contributions made by bookmakers in Northern Ireland were delivered direct to the front-line service treating gambling addiction, NITGA, in conjunction with its southern counterparts, began a direct voluntary arrangement with Dunlewey Addiction Services in 2010 to provide an annual contribution accumulated from the industry.

Northern Ireland bookmakers currently contribute in excess of £35,000 to Dunlewey Addiction Services on a yearly basis. Since 2013, this voluntary contribution is primarily delivered via payments made by local bookmakers to SIS (Sports Information Services) which is then directed onward to Dunlewey by SIS; with further contributions made by Northern Ireland bookmakers via the Gambling Awareness Trust (GAT). This funding assists

Dunlewey to operate and manage a free, confidential helpline service 365 days per year from 9.00am -11.00pm for individuals affected by their own or a family member's problem gambling issues. Dunlewey also provides a face to face counselling support service for problem gamblers – this service includes a 48-hour referral to counselling commitment and have local access to counselling throughout Northern Ireland.

NITGA and Dunlewey Addiction Services share appropriate information relating to gambling services and addiction through regular updates. We view this as a helpful and positive working relationship however, for the avoidance of doubt, the operation of Dunlewey is entirely autonomous and bookmakers have no influence whatsoever on the decision making of the organisation.

We have previously liaised with Dunlewey to arrange for leaflets to promote the helpline service to be made available to NITGA to place in every bookmakers shop in Northern Ireland, in addition to the promotion of the freephone contact details for Dunlewey Addiction Services displayed on bookmaker slips and in-store posters in the majority of shops and active interventions by staff members. We are therefore confident that the vast majority of the betting industry in Northern Ireland actively provides valuable signposting and promotion of the Dunlewey Gambling Advice Service or to GamCare (which forwards any Northern Ireland calls to Dunlewey) and feedback from those working in Dunlewey has advised us that this activity is working on the ground.

According to the Dunlewey Addiction Service's own records, the levels of problem gambling in Northern Ireland remain low although the number of referrals is increasing and online gambling is now the most prominent form of problem gambling amongst users of the service.

Although the overall survey results from the Department's 2016 gambling prevalence survey are from a sample size of 1000 people, the small number identified as problem gamblers (2.3%) is insufficient for any reliable statistical proofing. We regard it as essential to get the balance right between accepting that a very small number of people do have a problem with gambling and helping them accordingly; and the introduction of an overly bureaucratic system such as the structures created around the research, education and treatment of problem gambling, which has emerged in Great Britain. We believe the industry in Northern Ireland is quite capable of managing this issue with the support of charitable partners dedicated to helping problem gamblers and proportionate external scrutiny from the Department, with whom NITGA is very happy to work alongside.

NITGA understands that retail bookmakers are the only industry contributor to support problem gambling in Northern Ireland. We would propose that a proportionate voluntary contribution to the Dunlewey Addictions Service, coupled with signposting to the Dunlewey's Gambling Advice Service, is the most effective way of helping problem gamblers to help themselves and this should be extended to all sectors of the industry, including online betting platforms, amusement centres, commercial bingo clubs, the National Lottery and also pubs, clubs and casinos if there is any further liberalisation in relation to these areas.

NITGA has also engaged with Dunlewey Addiction Services in relation to potential research and additional promotion of the gambling advice service and would consider further schemes, in conjunction with other stakeholders, to support research, education and treatment into problem gambling. We would be open to discussing this further with Department officials. For example, if there is a major concern about a particular element of gambling, then it would be in the interests of the industry in Northern Ireland to commission research as needed which the Department could play a role in developing the terms of reference for. And, as problem gambling is often associated with other comorbidities (problem drinking, drug abuse, smoking etc.) there may also be a rationale for gambling addiction to be researched alongside other health issues. There are however clear differences between substance abuse addictions and other non-physical addictions – issues which may merit investigation in collaboration with the Department of Health. As a complex issue with many potential interdependent factors, it is therefore our opinion that problem gambling is not an issue that the industry can or should seek to address alone. There are currently no services commissioned by the Health and Social Care Board/Department of Health to address problem gambling, unlike other addiction services which are funded via the public and voluntary sectors and do not rely on industry contributions from alcohol, tobacco and prescription drug suppliers. This is therefore an area that we would welcome greater collaborative discussion in relation to.

In both Great Britain and the Republic of Ireland, a statutory levy has not proven necessary as voluntary contributions have been agreed by gambling operators. It would be hoped that a statutory levy would likewise not prove necessary in Northern Ireland and this will enable administration costs of such a levy to be significantly reduced and ensure that the vast majority of funds are directed onward to organisations dealing with problem gambling. We would, however, expect that the operation of any voluntary arrangement should, going forward, involve all gambling operators with a presence in Northern Ireland and thus be proportionate and equitable.

The voluntary scheme in Great Britain is undoubtedly not without challenges for the industry and there are always those who will seek to avoid their responsibilities. However, overall most responsible operators will contribute at the agreed indicative level. NITGA supports a voluntary scheme in Northern Ireland as we are confident that our members would make contributions at a proportionate rate. We believe representation and contributions from the entire gambling industry will be essential to determine strategy and the way in which industry money is spent.

The voluntary contribution made to Dunlewey Addiction Services is one example of the local retail bookmakers' efforts in successful self-regulation. In 2019, the Northern Ireland Turf Guardians' Association called on all bookmakers to voluntarily implement a £2 maximum stake for Fixed odds betting terminals (FOBTs) from 1 April 2019 in line with legislative changes at Westminster which do not apply to Northern Ireland. NITGA's expectation was that all bookmakers would adopt the £2 limit and we are confident that all NITGA members did implement this change on a voluntary basis – we have received no reports or evidence to the contrary.

Further, Northern Ireland retail bookmakers engage in a number of social responsibility measures to address the issue of problem gambling, including: self-exclusion arrangements for customers; relevant staff training both in-house and by specialist providers, including Dunlewey Addiction Services; no in-shop ATMs; no acceptance of credit cards; and prominent displays of responsible gambling messages and access to support in all of our members' shops, including the aforementioned signposting to Dunlewey Addiction Services.

29 Clause 14: The aim of the levy is that it will be expended on projects related to gambling addiction or other associated forms of harm and exploitation and that financial assistance may be provided by grants, loans or any other form of financial assistance. Do you think that this is an appropriate use of the levy?

Other

Please explain your answer:

NITGA agrees that there is a role to be played by the industry to help fund research, education and treatment of problem gamblers. NITGA does not agree that a statutory levy which applies only to land-based gambling operators is necessary and proportionate in all the circumstances.

30 Clause 14: Do you have any further comments on what the regulations should cover or how the levy should be spent?

Any further comments?:

NITGA does not agree that a statutory levy which applies only to land-based gambling operators is necessary and proportionate in all the circumstances. Any levy, statutory or voluntary, must extend to all gambling operators with a presence in Northern Ireland, including online/mobile operators and the National Lottery.

Particular consideration should be taken as to whether the cost of administration associated with a statutory levy could be disproportionate in the context of the monies received by organisations dealing with problem gambling, particularly in a jurisdiction the size of Northern Ireland.

Further, consideration should be taken as to how grants, loans or any other form of financial assistance will be awarded geographically and whether there will be equity across Northern Ireland in terms of investment. To our knowledge, there is presently only one organisation which delivers services on a Northern Ireland wide basis (Dunlewey Addiction Services).

## Clause 15

31 Clause 15: "Code of Practice". This Clause inserts a new Article 180A (Code of practice) into the 1985 Order and requires the Department to issue one or more mandatory Codes of practice about the manner in which facilities for gambling are provided. Do you feel that such a mandatory Code(s) of practice is appropriate?

Other

Please explain your answer:

NITGA is committed to supporting the development of statutory Code of Practice where it effectively supports the introduction of licence conditions and principles-based regime which accommodates licensing objectives around crime and disorder (particularly with reference to illegal gambling), treating customers fairly and protecting children and the vulnerable.

Allowing children (under 16) or young persons (16/17) to gamble should remain a criminal offence and we would welcome the opportunity to develop an industry social responsibility code which could be overseen by a committee of industry and external stakeholders, including the Department for Communities, PSNI, Dunlewey Addiction Services etc. It is important to appreciate that underage or otherwise vulnerable people, together with problem gamblers, are categories of customer that high street bookmakers neither need nor want.

The objectives should, however, be considered within the context of appropriately balancing the nature of enforcement and compliance with economic and social demands and we see no requirement for a complex substructure of mandatory codes in Northern Ireland. The industry view is that the introduction of a regulatory regime which is overly complicated and demanding should not be recreated in Northern Ireland, because it is simply not necessary. The Gambling Commission has over 50 compliance managers and a twelve strong enforcement team which spends a lot of time and money dealing with a broadly compliant industry.

32 What kinds of Codes of practice do you think the Department should issue?

What kinds of codes of practice do you think the Department should issue?:

NITGA supports a jointly developed industry Code of Practice for Northern Ireland and the running of a "compliance committee" to include Departmental representatives, betting and other gambling sector representatives and such other stakeholders as might be appropriate. We would be open to discussing this further with Department officials.

Codes of Practice should be issues in respect of all gambling operators in Northern Ireland - we do not believe it is equitable should Codes of Practice be limited to retail bookmakers and other land-based operators. The risk to children is perhaps most acute in other sectors as those under 18 may be able to bypass some online and mobile gambling age verification processes. There has also been the emergence of online gaming products akin to gambling which are much more attractive and problematic to young people than traditional bookmaking. For example, online gaming that promotes the use of in app purchases or 'loot boxes' that might give an advantage to playing in a game can lead to young people spending considerable amounts trying "to win" a particular feature. Esports gaming is also often linked to gambling advertising and these events are followed by hundreds of thousands of young people.

33 Do you have any other comments to make on the Code(s) of practice?

Do you have any other comments to make on the Code of Practice?:

In the absence of amendment to the 1985 Order or a statutory Code of Practice, the local industry has itself led on keeping pace with changing technology and customer behaviours through a range of successful self-regulation and social responsibility measures to support and promote safer gambling and to minimise gambling related harm.

What follows is not an exhaustive list of measures employed by retail bookmakers across Northern Ireland, but minimum standards we expect our membership to adhere to. NITGA is aware that most operators have additional policies and procedures in place to safeguard and protect customers.

#### 1. AGE VERIFICATION

- a. No person under 18 years of age is permitted in any betting shop.
- b. Age limit notices to be prominently displayed either outside the premises or immediately on entry.
- c. To prevent the risk of underage gambling from taking place, age verification procedures to be applied where there is any doubt regarding age, to include seeking proof of age.
- d. Operators are committed to working under the 'Think 21' principle whereby any customer that looks younger than 21 is asked for proof of age.
- e. Where a person is under 18, or fails to provide proof of age when requested, that person should be asked to immediately leave the shop.

#### 2. BETTING RULES

- a. A set of rules under which bets are accepted should be clearly displayed in every betting shop.
- b. Rules will include the details of an arbitration service, to be used in the event of a dispute arising from any transaction.

#### 3. CREDIT CARD USE/ATMs

- a. Credit cards must not be accepted as payment for any gambling/betting transaction within a betting shop.
- b. No ATMs should be within the premises of a betting shop.

#### 4. SAFER GAMBLING INFORMATION

- a. All shops must provide/make available information regarding safer gambling and signpost customers to appropriate support services. This should be employed via a range of methods, as far as practicable, to include: posters, leaflets, notices on machines/terminals, messaging on betting slips.
- b. Any NITGA member requiring assistance with such materials, should contact NITGA.

#### 5. SELF-EXCLUSION

- a. All operators must have a self-exclusion policy and make self-exclusion available to any customer who wishes to avail of it.
- b. A self-exclusion policy should include, but may not be limited to the following:
  - i. Maintaining a self-exclusion register (and requesting a photo);
  - ii. Enforcement of a minimum exclusion period (which cannot be rescinded)
  - iii. Use of a 'return to betting form' signed by the customer in tandem with a cooling off period before the customer can place any bets.

#### 6. STAFF TRAINING

- a. Shop staff should receive training and advice on how to recognise problem gambling indicators.
- b. Shop staff should receive training as to interacting with customers at risk of developing a gambling problem, including discretely signposting to relevant support services.
- c. Shop staff should receive training on dealing with self-exclusion and age verification.

#### 7. GAMING MACHINES AND FIXED ODDS BETTING TERMINALS (FOBTS)

- a. The maximum total number of AWP/FOBTS permitted in a betting shop is 4, of which only 2 can be AWP machines.
- b. The maximum stake on an AWP is 30p and the maximum prize is £25.
- c. The maximum stake on a FOBT is £2 and the maximum prize is £500 (from 1 April 2019 in line with legislative change in Great Britain).
- d. No credit, debit or smart card payments accepted on machines/terminals.
- e. No cash pay-outs directly from FOBTS - all pay-outs via shop staff.
- f. Software and gaming content should reflect the regulatory standard applicable in Great Britain as best practice.
- g. All FOBTS should include social responsibility software consistent with the regulatory standard applicable in Great Britain, to include: player limit facility, time of play reminder, staff notification of long play session and responsible gambling messages displayed on-screen.

#### 8. VOLUNTARY CONTRIBUTION

- a. All NITGA members should make an annual contribution to Dunlewey Addiction Services either by (i) direct payment to Dunlewey or (ii) via SIS (Sports Information Services) to be directed onward to Dunlewey to fund assistance for those with gambling problems in Northern Ireland.
- b. NITGA strongly encourages all members to make additional voluntary contributions to fund assistance for those with gambling problems and we are aware that many operators privately make individual contributions to Dunlewey Addiction Services or to support other services in their local areas.

NITGA can confirm the following operators are NITGA members compliant with the aforementioned minimum standards:

- Ladbrokes (73 shops)
- A. McLean Bookmakers (65 shops)
- Toal's Bookmakers (52 shops)
- BoyleSports (45 shops)
- Paddy Power (9 shops)
- J Rainey (7 shops)
- T French (5 shops)
- D Higgins (2 shops)
- P Smyth (1 shop) Total: 259 shops

NITGA regularly reviews minimum standards in conjunction with members, through engagement with the Department of Communities and Dunlewey Addiction Services and consideration of both best practice and legislative developments in other jurisdictions.

## General Views & Comments and Second Stage of Reform

34 Do you have any other views or comments you wish to make in connection with this Bill?

Do you have any other views or comments you wish to make in connection with the current Bill?:

The Bill, as introduced, will of course be considered in the context of amendments that are required to Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 to reflect new developments within the betting industry and evolving social and technological trends over the past 35 years. However, it should also be noted that to a large extent the 1985 Order has served the industry and the public well. The Bill, as introduced, should also be read in conjunction with the features of the current legislation which already operate efficiently and effectively. Failure to strike a balance on what is and is not necessary will be important to ensure an overly bureaucratic and expensive system is avoided.

It is worth noting for example, that the 'demand test', is a fundamental policy objective underpinning gambling legislation in Northern Ireland. The demand test, as applied by the courts in Northern Ireland, has been consistently vindicated as an effective method of ensuring that the number of bookmaking premises in a given community remains within socially acceptable and legally manageable limits.

In recent years the gaming industry has grown considerably, particularly due to the emergence of online and mobile betting. This increased competition has placed increasing pressure on the traditional licensed bookmaking outlet and placed greater significance on the demand test principle in maintaining a limit on licenses.

Retaining the 'demand test' is also an important factor in maintaining a balanced and diverse range of retail outlets on the high street, something which has become a negative issue in some parts of Great Britain since the test was removed in 2007, as part of the Gambling Act 2005. The main consequence has been the clustering of betting shops on prime high street locations and areas of high footfall, including shopping centres, due to the increased ability of commercial rivals to open against an existing betting shop and to take profit from the incumbent; as well as establishing a new customer base. The change in policy has resulted in political controversy and negative media comment in Great Britain as the larger and/or better financed operators have been allowed to establish a larger estate of betting shops while the number of single shop operators and small independent chains are in decline due to an inability to compete.

Despite common misconceptions to the contrary, the structural change in Great Britain i.e. the clustering of betting shops is not a situation replicated in Northern Ireland. There are currently fewer retail betting shops in Northern Ireland than at any time in the past 25 years and bookmakers shops have, by and large, existed in the same locations since the 1970's. The 1985 Order has successfully prevented any opportunity for cynical targeting of areas of lower socio-economic demographics due to the preservation of the demand test which applies demand in the context of population density.

The absence of a demand test also contributed to a boom and bust type scenario within the industry in the Republic of Ireland. Fuelled by a growing economy between the 1980s and mid 2000s, and no equivalent demand provision, market growth resulted in 600 new shop openings with the number of bookmakers rising from 765 to 1365 and creating a clustering effect in towns and high streets. Post-recession, the consolidation of betting shop numbers has been on a downward trajectory to approximately 800 shops at present, resulting in negative consequences including an average of five jobs lost per unit closed. Again, this is not a situation anyone would want to be replicated in Northern Ireland. Any expansion opportunities available to operators through the removal of the demand test would inevitably prove unsustainable in the long term and ultimately lead to negative impacts for the future of the sector, particularly in relation to the survival of small independent shops and resulting unemployment.

35 "Second Stage of Reform" Are there any issues that the Department plan to deal with in the second stage of reforms that you feel should be dealt with in this first Bill?

No

Please explain your answer:

NITGA accepts that there is a limit as to what can reasonably be addressed in the present Bill, as introduced, due to the limited time remaining in the current mandate.

36 What issues would you like to see addressed in the second stage of the reforms?

What issues would you like to see addressed in the second stage of the reforms?:

Gaming Machines

It is important that the forms of gambling that have become commonplace elsewhere should be offered, and regulated accordingly, here in Northern Ireland and not forced underground into the black economy. Customer choice in Northern Ireland is already more restricted than in other jurisdictions therefore, failure to effectively legislate for existing services not only places betting shop operators at a competitive disadvantage by comparison to the full suite of gambling opportunities available online, but could ultimately render the industry unviable.

NITGA supports the classification of Fixed Odds Betting Terminals (FOBTs) as gaming machines in conjunction with amending the stakes and prizes limits in line with the corresponding limits in Great Britain.

In 2019, NITGA called on all bookmakers to voluntarily implement a £2 maximum stake for FOBTs from 1 April 2019 in line with legislative changes at Westminster which do not apply to Northern Ireland. NITGA's expectation was that all bookmakers would adopt the £2 limit and we are confident that all NITGA members did implement this change on a voluntary basis. We support a statutory implementation of the £2 maximum stake in Northern Ireland.

The local industry remains overwhelmingly dominated by traditional over-the-counter betting, however FOBTs have been in operation in bookmakers for over 15 years and are now an established and integral part of services offered in betting shops here. These free-standing self-service betting terminals provide customers with an alternative way to bet. Bets are placed on the result of randomly generated computer events or random number events which

graphically represent races and other betting events.

In Great Britain, FOBTs are classified as gaming machines; however maximum stakes of £2 and prizes of £500 are available. As Northern Ireland's current legal framework on AWP("Amusement with Prizes")/gaming machines provides only for a maximum stake of 30 pence, classifying FOBTs as gaming machines in the absence of amending stakes and prizes at the same time would implicitly prohibit the use of FOBTs in Northern Ireland without the need for an explicit ban even being required. Customer choice in Northern Ireland is already very much more restricted than it is in Great Britain and there is therefore scope for substantially increasing the range of machine-based products available to betting shop customers, rather than banning services which already exist. This creates a negative impact on three levels, by not only restricting customer choice, but also placing betting shop operators at a competitive disadvantage by comparison to the full suite of gaming opportunities available on-line, in addition to a potentially valuable source of tax revenue being left untapped. Furthermore, in terms of customer safety, the operation of gaming machines within betting shops allows customers to play within an adult controlled environment.

NITGA strongly agrees that a clear definition of the law in relation to FOBTs is required, but strongly opposes any ban – explicit or implicit - to their operation. We contend that regulatory decisions of this kind should be taken on the basis of evidence, not based on moral grounds or false perceptions about this type of betting. Despite frequent misconceptions to the contrary, there is no evidence demonstrating that FOBTs encourage excessive gaming or cause problem gambling, crime or money laundering in Northern Ireland. Neither the 2016 Northern Ireland Prevalence Survey or monitoring by Dunlewey Gambling Advice Service have identified any specific issues relating to FOBT use by comparison to other gaming machine formats available in Northern Ireland. Caution must be taken not to conflate issues in other jurisdictions without evidence that such issues are relevant to Northern Ireland.

NITGA supports full parity with Great Britain, in terms of stakes, prizes and locations, including the regulated operation of FOBTs in betting shops. The risk of failing to meet customer demand in this area will only serve to push illegal operators to fill the void. Historical precedent across many jurisdictions shows that prohibition does not work. It is much better that FOBTs operate in a properly regulated, tax raising environment rather than in a black economy where there will be no protection for players and the key principles of consumer protection and keeping crime out of gambling will not be achieved.

FOBTs are also an extremely important part of the Northern Ireland bookmaker business model as traditional betting methods continue to decrease in popularity in favour of new technology methods. A ban of FOBT operation, particularly where maximum stakes do not exceed £2 and prizes do not exceed £500, would cause serious and devastating economic hardship to bookmakers resulting in business closures and a loss of employment. There are very few overheads associated with FOBTs, so although over the counter turnover is considerably higher; FOBTs have a proportionately larger effect on a bookmaker's net profits. The gross profit generated by FOBTs therefore makes a direct contribution to overall profitability. FOBTs are in this respect analogous to a standard petrol station - although significant sales are generated from fuel, filling stations cannot survive on selling this alone and they rely on the net margin of their grocery sales.

In addition, while the bookmaking industry has taken a compliant and responsible approach to the operation of FOBTs from a social, economic and legal perspective; it is also apparent also that there are a considerable number of additional FOBT machines which are operating illegally and with higher stakes in excess of £2 outside of bookmaker shops, in places such as illegal casinos masquerading as bingo halls, and are circumventing paying tax to the exchequer (bookmakers currently pay Machine Gaming Duty (MGD) of 20% with current stakes and prizes).

Our own intelligence suggests bookmaker shops in Northern Ireland have an average of less than 2.5 FOBT machines – currently significantly lower than the upper limit of four machines in Great Britain. Any ban on FOBTs will only serve to push demand for this type of activity underground and criminalise many customers who merely wish to continue enjoying FOBT betting as they have done for the past number of years within the controlled environment of a betting shop.

In the alternative, unmet demand for FOBTs in bookmaking shops will transfer to online and mobile gambling. We contend that the focus on FOBTs has been disproportionate and at the expense of fully recognising and addressing issues associated with online and mobile gambling which takes place outside of the bounds of the controlled betting shop environment. Furthermore, as most online and telephone betting operators are presently located outside Northern Ireland, this represents a loss of revenue from the local economy.

NITGA therefore proposes that the second stage of legislation addresses the following issues with regard to gaming machines:

- a. The definition of a gaming machine be amended to reflect the variety of machines which now exists.
- b. The gaming machine technical standards that exist in Great Britain be adopted in Northern Ireland.
- c. The law be amended to bring gaming machine stakes and prizes limits in line with the corresponding limits in Great Britain.
- d. Gaming machines be able to accept stakes and pay out prizes in forms other than coins, as follows: bank notes; ticket in/ ticket out; operator approved digital wallets. Betting shops in Northern Ireland do not generally accept credit cards and NITGA supports alignment with Great Britain in prohibiting this practice.
- e. Higher stakes and prizes jackpot machines be permitted in bookmaking offices, bingo clubs and amusement arcades where entry is restricted to those aged over 18 and over.
- f. The law should be amended with respect to the number of gaming machines permitted in a bookmaking office in line with the limit in Great Britain – 4 machines.

#### Duration of Licenses

NITGA proposes an amendment to the law to extend the duration of a licence period of up to five years.

Furthermore, we would strongly advocate greater clarity surrounding the duration of temporary continuance orders. Article 26 (2) (d) (i) of the 1985 Order states that the business should return to the original location within a 'reasonable' period, which is undefined, open to abuse, and devoid of appropriate opportunities for licensees and the wider business community to challenge the duration of the Order.

## Illegal gambling

NITGA is concerned by the growth of illegal gambling activity taking place in public houses. Illegal gambling is an issue that NITGA has been outlining for over 20 years and has consistently made appeals to government officials and the PSNI to provide a more robust legislative solution and improved enforcement. The current legislation categorically fails to provide disciplinary conditions which would serve to dissuade individuals from operating illegally.

A serious and direct consequence of the legislature's failure to introduce up to date legislation has been the growth and prevalence of illegal operators who are able to carry-out illegal activity within the unregulated vacuum that has been created. The impact of this current situation is two-fold: firstly, customers are directly exposed to criminality, in an unregulated environment, that ultimately exploits vulnerable people; and secondly, the sustainability of the business of law-abiding bookmakers is increasingly under threat. NITGA, has been working hard to communicate the fact, that the only premises that can accept bets are licensed betting shops, however in reality, without the presence of legislative deterrents/penalties and effective enforcement this illegal practice will only grow.

Via our own intelligence, including the use of private investigators, NITGA has identified four common illegal gambling scenarios:

- a. A publican lays his own book behind the bar and takes bets from customers, paying out winnings as required.
- b. A publican uses bookmaking slips from a local bookmaker/or other third party and telephones the bets through for the customer.
- c. An individual acting as an agent to accept bets in a pub/club premises with the full knowledge of the publican.
- d. Licensed bookmakers (who are not NITGA members) installing large 'betting screens' in premises licensed for alcohol consumption, free of charge. The screens display nothing other than betting odds and contact information for the bookmaker who installed it. It is commonplace, for the publican to receive commission for accepting bets over the bar.

The above practices create harmful environments which facilitate the consumption of alcohol alongside gambling – two industries that have traditionally been kept separate and are separately licensed for good reason.

Currently, under the Licensing (Northern Ireland) Order 1996 a court may suspend a liquor licence for a period of between 1 week and 3 months on conviction of an offence under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985. The test that is applied in deciding whether a prosecution may be brought is stringent and extremely difficult to meet. The only fool proof way of meeting the evidential burden is via an undercover operation involving the participation of undercover police officers. The PSNI has emphasised to NITGA, that its resources are severely stretched beyond present capacity and the PSNI simply does not have the capacity to seriously clamp down on illegal gambling. At present, those found to accommodate illegal gambling are therefore most likely to receive a police caution – this is not an effective deterrent as those individuals quickly resume illegal activity, as the lucrative (tax free) benefits outweigh the consequences.

The Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021 was, in our view, a missed opportunity to provide the PSNI with an effective enforcement tool and effectively address the issue of illegal gambling taking place within pubs and clubs by integrating penalties and offences. For example, the introduction of a penalty point system was not progressed and could have included penalty point being attributed to a licensee if illegal gambling is found to be taking place on their premises.

The only recourse available to bookmakers is to instigate private criminal prosecutions or civil litigation against publicans. To date, approximately twenty civil actions have settled outside court on agreement for illegal gambling to cease on the part of the publican. However, there is a limit to the efficacy of such actions in terms of punitive sanctions for the illegal activity previously undertaken, particularly where there is no resulting impact on the publican's retention of their liquor licence or reputational damage. The likelihood that the illegal activity will later resume also cannot be ruled out.

In February 2020, in the first successful criminal prosecution of its kind in Northern Ireland, an Armagh publican was fined £2400 (£100 in respect of 24 separate charges) of permitting illegal gambling on his premises by carrying on the business or acting as a bookmaker without holding a valid bookmaker's licence. The court also directed the publican to pay £24,000 compensation to the bookmaker who brought the private prosecution.

Although successful outcomes of this nature are to be welcomed, the local bookmaking industry cannot assume the responsibility of performing the function of effectively regulating illegal gambling. The only effective long-term deterrent that will restrict the growth of illegal gambling is legislating for the possibility that a publican/landlord/illegal bookmaker may lose their license if found to be aiding and abetting illegal gambling in his/her premises. NITGA asks that the issue of illegal gambling is therefore considered in the context of future amendments to both liquor licensing and gambling legislation. There is also the obvious economic benefit to Government insofar as legal betting activities are subject to both corporation tax and general betting duty, whereas illegal betting attracts neither. This is an area that NITGA is keen to develop further in conjunction with government officials and the PSNI.

It should be noted that our membership remains concerned that there are significant issues relating to illegal gambling in Northern Ireland that are currently under reported, which undoubtedly contributes to the existence and ability to address issues of problem gambling in a holistic manner.

## Remote (online gambling)

NITGA believes it is necessary to introduce additional, Northern Ireland specific, licensing and regulatory measures with respect to remote gambling operators.

The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 is primarily modelled on the legislation in Great Britain from the 1960's and predates the advent of the internet. Updated legislation must recognise that retail betting is no longer the dominant form of gambling. The 2016 Northern Ireland Prevalence Survey highlights that traditional betting on a sport or event is rapidly diminishing (22.8%) as younger customers increasingly favour online gambling for convenience and anonymity. Some online gambling takes place outside of a regulated environment and presents a much greater risk to the vulnerable than retail betting.

There have been no subsequent amendments to the 1985 Order to provide for gambling online and no clarification in respect of the position for Northern Ireland bookmakers accepting bets online.

NITGA supports a legislative provision to allow providers of online gambling products to establish their operations in Northern Ireland. There should be the opportunity for operators to apply for operating licences if they choose to locate their betting/gaming transaction server or other key equipment in Northern Ireland.

#### The National Lottery

The 2016 Northern Ireland Prevalence Survey produced by the Department for Communities identified three of the four most common types of gambling in Northern Ireland to be 'National Lottery' (46.8%), 'scratch cards or instant win' (23.7%) and 'other lottery, raffle and ballot' (20.6%). The significance of this form of gambling in respect of gambling prevalence is highly notable, yet the National Lottery and its plethora of new draws, higher value scratch cards/instants, and suite of online and mobile play options, remains largely absent from any legislative focus or contribution to promoting social responsibility and addressing problem gambling.

It is to note, in particular:

- a. the National Lottery is exempt from the prohibition of the use of credit cards for gambling in Great Britain as retailers are still able to take credit card as payments.
- b. draw based games such as the Lotto and EuroMillions are exempt from GAMSTOP which otherwise acts as a one-stop self-exclusion scheme for all online betting platforms, with vulnerable players instead given the 'opportunity' to self-exclude from such games through each individual lottery operator.
- c. the National Lottery makes no contribution to the voluntary arrangements to support problem gambling in Northern Ireland and Great Britain.

The National Lottery and other lotteries are often perceived as benign forms of gambling; however, this is quite clearly questionable on analysis of the 2016 Northern Ireland Prevalence Survey. There is no 'soft' or 'low risk' option for those who are vulnerable and National Lottery products can present just as great a risk of addiction and abuse as any other form of gambling. It is not justifiable for the National Lottery to remain outside of analogous regulatory and accountability mechanisms by comparison to the rest of the industry. As the National Lottery is a reserved matter, any future proposals on mechanisms to address problem gambling in Northern Ireland must navigate this restriction.

#### Future regulatory framework for Northern Ireland

NITGA strongly supports the introduction of a flexible legislative framework to enable regulation to keep pace with technological advances and customer expectations. It is essential that the legal framework accommodates any increasing or additional consumer demand through the appropriate channels in order to ensure the future growth and sustainability of the industry; protection of more than 1500 local jobs and reduction in illegal gambling activities.

We do not believe the Gambling Act should be used as a template for the regulation of gambling in Northern Ireland. It is to note the UK government consulted on reform of gambling legislation in December 2020 and it is anticipated that a White Paper will be published before the end of 2021 to set out the Government's proposals for reform of the 2005 Gambling Act.

NITGA strongly supports the retention of the current regulatory system in Northern Ireland (no regulatory body). The current regulatory system is fit for purpose and we believe the establishment of a new regime will only serve to add unnecessary bureaucracy, duplication of resources and disproportionate expense to the already compliant legitimate industry. The creation of an independent regulatory body, which would be both costly and bureaucratic, is not required in a jurisdiction of this size. We believe that a single tier regulatory system adjudicated by the county courts has proved consistently effective and is suitably independent in providing a premises licence regime which includes the 'demand test'. Whilst all consumer preferences should be catered for within licensed gambling premises, an operator should still have to prove demand for additional premises before obtaining a new licence.

NITGA fully supports equal enforcement of the law with regard to licensed and illegal betting and gaming activity, with realistic sanctions to deter and punish offenders. We believe that the current system in which policy and legislation emanates from the Department of Communities, the county courts govern the licensing system and enforcement is the principle responsibility of the PSNI should be maintained and that this model is most appropriate, efficient and cost effective to the requirements of the Northern Ireland jurisdiction.

Furthermore, we consider that the judiciary is best placed to ensure consistent and objective adjudications on all applications and would be highly concerned that this could be compromised within local authorities and that 'small-town' politics and polarised perspectives on gambling could present a significant obstacle to this independence.

Article 5 (1), together with Schedules 2 and 3, of the Betting and Gaming (Northern Ireland) Order 2004 updated the 1985 order by transferring the responsibility for the grant of bookmaking office licence from courts of summary jurisdiction to county courts and has been implemented since early 2005. NITGA considers these current arrangements to be an uncomplicated and effective system which is both appropriate and adequate.

The existing system is simple to operate, compliance and enforcement is straightforward, and costs are reasonable, therefore we fully support the retention of the existing single tier system and the courts authority to grant licences. The implementation of the 2004 Order has brought improvements in consistency, objectivity and efficiency in county court proceedings and naturally these developments are to be welcomed.

Furthermore, under this system, we are unaware of any case to date in which a county court decision has been overturned. Within an increasingly litigious environment, a change in the current system to give a small departmental unit responsibility for granting licenses could prove a false economy in terms of times and resources, leaving itself open to challenges of its decisions and possible judicial review actions. If such decisions will ultimately involve judicial scrutiny, it would seem counterintuitive that the current court system is not recognised for the efficient, effective and independent system it

already provides.

The county courts in Northern Ireland have interpreted the 'demand test' in a strict and cautious fashion. A relatively detailed body of local jurisprudence has been developed around the test, using both qualitative and quantitative indicators, thus ensuring that it is applied consistently across Northern Ireland. It is evident that whilst the prerogative of the courts is to apply the law as it stands, rather than to entertain political notions of public accountability, both the demand test and the statutory duty to consider public objections contained within the 1985 Order (and subsequently updated by the 2004 Order) ensure that the licensing procedure as a whole operates to provide accountability for public concerns. This framework has also proven effective in liquor licensing with no suggestion that the role of the courts should be subsumed by a regulatory body for the hospitality industry.

Furthermore, we contend that the courts' licensing remit should also be extended to amusement permits for amusement/gaming centres (a role currently held by Councils) to ensure that, where any form of gambling occurs legitimately, it is licensed and bound by the same legislative framework and consistency in oversight. A fractured licensing system whereby some gambling activity is either licensed by local councils or not licensed at all provides for greater exposure to potential abuse or exploitation by criminal elements in society.

NITGA considers the PSNI the most appropriate agency to lead on enforcement, particularly due to the special security considerations which are still present in Northern Ireland. The current arrangements in Northern Ireland are satisfactory, however the PSNI cannot carry out this very important responsibility effectively unless the legislation takes account of new developments within the betting and gaming industry and evolving changes in social attitudes. For some time, NITGA has been briefing the PSNI on our intelligence on illegal gambling activities which we are aware are taking place in Northern Ireland. We believe that an increase in fines and penalties and giving the courts or PSNI more authority to apply such punishment would provide the necessary motivation to begin to address this continuously growing issue and deter illegal gambling.

In Great Britain, the Gambling Commission is responsible for dealing with illegal gambling. It is, in our view, an issue best dealt with by a properly trained police force which has, or should have, the necessary resources and a local intelligence gathering network, both of which are essential to combating the crime of illegal gambling successfully. NITGA believes that it is unrealistic to consider that a non-police body could be formed in Northern Ireland with the resources and power to combat illegal gambling effectively within the current economic and political climate, and in the context of intelligence indicating paramilitary associations with illegal gambling in some areas.

We believe consideration to increasing the powers of the PSNI and stricter offences/penalties may be appropriate as the current system does not appear to be robust enough to act as an efficient deterrent. In fact, we would strongly advocate that the Department considers general offences and penalties which are stricter than the current law in Great Britain. It is our view, for example, that a standard £25 fine imposed in court is not an effective deterrent and this low threshold is ultimately counterproductive to the powers of enforcement held by the police. It is our contention that effective enforcement goes hand in hand with stricter penalties.

Although there are areas for improvement in the existing regulatory framework, it is NITGA's view that the difficulties associated with the alternative structures are such that the present system will remain the most appropriate for Northern Ireland.

(i) An independent body

NITGA views the establishment of an independent body in Northern Ireland to grant licences and regulate the retail bookmaking industry as unnecessary and inferior to the role currently provided by the courts.

In Great Britain, since the 2005 legislation came into force, the effect has been to move the primary responsibility for licensing and enforcement away from the courts and the police to the Gambling Commission and the local authorities. At times, this has created confusion as to lines of responsibility between the Gambling Commission, local authorities and police. There was, in the industry view, little evidence that the previous structures for licensing and enforcement applicable to betting was deficient.

(ii) Government regulator

NITGA views the establishment of a government regulator to grant licences and regulate the retail bookmaking industry as unnecessary and inferior to the role currently provided by the courts.

It is unclear how a small departmental unit would provide a more efficient model to regulate and control gambling compared to the existing court based licensing system, without a duplication of resources, unnecessary bureaucracy and disproportionate expense being incurred. Furthermore, if a government regulator is established careful consideration would also need to be given to the limits of its responsibilities for enforcing the law.

(iii) An existing regulatory body

NITGA does not consider there would be benefit with extending the remit of an existing regulatory body i.e. the Gambling Commission to Northern Ireland. The Northern Ireland statutory framework does not allow for the Gambling Commission to operate analogous with Great Britain. The introduction of a quasi-Gambling Commission structure would serve to introduce costly administrative, operational and legislative challenges.