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Betting, Gaming, Lotteries and Amusements (Amendment) Bill

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This paper has been prepared to inform consideration of the Betting, Gaming, Lotteries and Amusements (Amendment) Bill which was introduced to the Assembly by the Minister for Communities on 14 September 2021. The Bill represents the first stage of a two phased approach to gambling reform in Northern Ireland. This paper looks at gambling regulation and gambling prevalence in Northern Ireland; provides an overview of the clauses of the Bill and identifies some issues that may merit further consideration; provides some contextual information on gambling regulation in GB and RoI; and explores other gambling-related issues that are not within the remit of the Bill (as introduced).

Key Points

- The **Betting, Gaming, Lotteries and Amusements (Amendment) Bill** was introduced by the Minister for Communities on 14 September 2021.
- The Bill introduces a series of amendments to the **Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985**. The 1985 Order is the main legislative framework for the regulation of gambling in Northern Ireland.
- The Department for Communities has acknowledged that the 1985 Order “*is outdated and has not kept pace with industry and technological changes; it is also complex and inflexible*”.
- The Minister for Communities indicated during the Second Stage of the Bill that there will be a **two phased approach to gambling reform** in Northern Ireland. The Bill represents the first stage of reform to be followed by a much broader longer-term programme of reform in the next Assembly mandate that will look at issue such as remote (online) gambling.
- It is important to note that gambling activity in Northern Ireland is likely to be influenced by the **reform of gambling law that is currently underway in the Republic of Ireland** and the **outcome of the review of gambling law and policy that is currently underway in Great Britain**.
- The Bill (as introduced) is comprised of 16 clauses (14 of which are substantive clauses) and one Schedule. Clause 1 of the Bill is the interpretation and Clause 16 covers the short title and commencement. In summary, the substantive clauses of the Bill are as follows:
 - Clause 2:** removes the existing Sunday and Good Friday trading prohibition of licensed bookmakers.
 - Clause 3:** amends the definition of betting work in Schedule 8A of the 1985 Order (i.e. rights of betting workers as regards Sunday working) to extend Sunday working protection to workers in licensed bookmaking offices.
 - Clause 4:** permits the operation of pool betting in licensed bookmaking offices subject to certain conditions.
 - Clause 5:** amends the eligibility requirements in relation to persons who may take part in licensed bingo clubs (e.g. removes the 24 hour waiting period between application and participation in bingo).
 - Clause 6:** removes the existing Sunday and Good Friday trading prohibition on licensed bingo clubs and the prohibition on gaming (i.e. the use of gaming machines) in licensed bingo clubs on Sunday and Good Friday.
 - Clause 7:** creates new offences in relation to inviting, causing or permitting a person under the age of 18 to play anything other than low stakes gaming machines.

Clause 8: reworks Article 131 of the 1985 Order so as to exclude free to enter prize draw competition arrangements from the definition of a lottery. Article 168 of the 1985 Order currently prohibits the conduct of certain newspaper and other prize competitions in Northern Ireland. Clause 11 seeks to remove free-to-enter prize competitions from this prohibition. The Bill also proposes to introduce a new schedule (15A) setting out what does and does not constitute a requirement to pay to participate.

Clause 9: removes the £1 ticket limit for society lotteries and also alters the rules on deductible expenses.

Clause 10: removes the current residency and incorporation requirements in relation to the granting of a bookmaker's licence, bingo club licence and gaming machines certificate or permit. It also reduces the lower age limit for granting the same licences, certificates and permits from 21 years of age to 18 years of age.

Clause 12: replaces the existing definition of cheating in the 1985 Order.

Clause 13: provides for a contract relating to gambling to be legally enforced.

Clause 14: provides the Department with the power, by way of regulations, to impose a financial levy on applications for the grant of bookmaker or bingo clubs licences, gaming machine certificates or permits, and amusement arcades. The clause also makes various provisions in relation to the payment and administration of the levy.

Clause 15: requires the Department to issue and publish codes of practice and outlines the procedures for issuing and revising the code or codes.

- This Bill paper examines the clauses in further detail and, where relevant, provides a comparison with the law in other jurisdictions (primarily RoI and GB). It also highlights a number of potential issues that may merit further consideration.
- The final section of the paper provides a brief overview of some of the issues that are not in the Bill including, the options for future regulation including the potential for a new gambling regulator; the protection of children and young people; remote (online) gambling; advertising and sponsorship; consumer protection; the 'demand' test for bookmaking offices and licensed bingo clubs; Fixed Odds Betting Terminals (FOBTs); gaming machine stakes and prizes; gaming machine technical standards; duration of licences; casinos; and stakes and prizes in licensed bingo clubs. However, this is not intended to be an exhaustive list of issues.
- The Bill Paper concludes by briefly exploring the need for a cross-Departmental approach to gambling related harm. It looks at examples of strategies for gambling related harm in other jurisdictions and highlights some of the gaps in our local knowledge regarding gambling related harm.

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1 Introduction

The [Betting, Gaming, Lotteries and Amusements \(Amendment\) Bill](#) was introduced to the Northern Ireland Assembly by the Minister for Communities on 14 September 2021¹. The [Second Stage](#) of the Bill took place on 27 September 2021. The Bill consists of 16 clauses (14 of these are substantive clauses) and one schedule. The Bill's [Explanatory and Financial Memorandum](#) (EFM) states that the overarching objective of the Bill is to “*address a number of specific anomalies with regard to the current regulation of land based betting, gaming, lottery and amusement activities*”. The EMF further explains that the Bill is “*also designed to strengthen existing regulatory protections for operators and consumers as well as young people and those who may be vulnerable to gambling harm*”. The Bill introduces a series of amendments to [The Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985](#) (“the 1985 Order”) which is the main legislative framework for the regulation of gambling in Northern Ireland². The Department for Communities has stated that it “*accepts that the current legislation is outdated and has not kept pace with industry and technological changes; it is also complex and inflexible*”³.

The Minister for Communities has indicated that there will be a **two phased approach to gambling reform** in Northern Ireland. The current Betting, Gaming, Lotteries and Amusements (Amendment) Bill constitutes the first phase of reform. This may be followed in the next mandate by a much broader long-term programme of reform that will involve a new regulatory framework including the regulation of online gambling^{4 5}. It is important to note that gambling in Northern Ireland is likely to be influenced by future gambling reform in the Republic of Ireland and potential reform in Great Britain. In the Republic of Ireland [work is underway](#) on the drafting of a new Gambling Bill and there is a commitment to establish an independent Gambling Regulator⁶. The outcome of the UK Government's [review of the Gambling Act 2005](#) will be particularly pertinent to Northern Ireland should it introduce further controls on online gambling and advertising⁷. To assist Members' understanding of developments in other jurisdictions RaISe has made available a comprehensive reading list on its Research Matters' blog

¹ A copy of the Bill (as introduced) and its Explanatory and Financial Memorandum is available to download at www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/betting-gaming-lotteries-and-amusements-amendment-bill/

² The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985. www.legislation.gov.uk/nisi/1985/1204/contents

³ Department for Communities. Regulation of Gambling in Northern Ireland. Consultation Document. December 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-consultation-regulation-gambling.pdf

⁴ Department for Communities. News Release. Hargey to reform gambling laws. 27 May 2021. www.communities-ni.gov.uk/news/hargey-reform-gambling-laws

⁵ NI Assembly. Official Report. 27 September 2021. <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/27&docID=350780#3626642>

⁶ Department of Justice. Gambling. <http://justice.ie/en/JELR/Pages/WP15000254>

⁷ Department for Digital, Culture, Media & Sport. Review of the Gambling Act 2005 Terms of Reference and Call for Evidence. www.gov.uk/government/publications/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence

entitled '[A reading list on gambling policy, legislation and reform in Great Britain and the Republic of Ireland](#)'.

The purpose of this Bill Paper is to inform consideration of the Betting, Gaming, Lotteries and Amusements (Amendment) Bill (as introduced). It begins by providing a brief overview of the clauses of the Bill. Following on from this it looks at how gambling is currently regulated in Northern Ireland and the prevalence of gambling and 'problem gambling' here. The second half of the paper looks at the clauses of the Bill in further detail starting with a brief overview of the lead up to the Bill including the public consultation process. It then examines the clauses of the Bill in further detail, making comparisons with other jurisdictions where relevant.

The final section explores issues that are currently not within the remit of the Bill but which the Department had consulted on as part of its [2019 consultation](#) on the regulation of gambling in Northern Ireland. The paper concludes by very briefly looking at the issues of gambling related harm from a cross-Departmental perspective and identifies some approaches taken by other jurisdictions to prevent or minimise gambling related harm. First, however, the paper looks at the potential knowledge gaps in relation to gambling and gambling related harm in Northern Ireland and acknowledges that the Departmental public consultations on gambling, the inquiry of the [All Party Group on Reducing Harm Related to Gambling](#), and the Committee for Communities Call for Evidence on the Bill could help close some of those gaps.

The availability of data and research on gambling and gambling-related harm in Northern Ireland

Notably the Department for Communities has published two gambling prevalence surveys in [2010](#) and [2016](#). However, the current available evidence base in Northern Ireland provides significantly less data (particularly longitudinal data) and insights on online gambling than that available for Great Britain. This is a particularly important issue given the increasing popularity of online gambling across the UK. There is a need to monitor and evaluate the impact of the constantly evolving pace in technological developments in this part of the industry. There is also a need to understand the risks associated with online gambling for vulnerable groups such as problem gamblers and children and young people. There is also no published data available regarding the impact of the COVID-19 pandemic on gambling prevalence and gambling-related harm in Northern Ireland although some inferences may be drawn from the GB data collated by the Gambling Commission.

However, it is important to note that the range of available statistics for GB is not without its criticism. A recent House of Lords Select Committee [Report on Gambling Related Harm](#), for example, argues that the analysis of harms caused by gambling is hampered by "a dearth of reliable statistics". It highlighted the difficulty, including methodological difficulties, in assessing the number of suicides related to problem

gambling. The report also recommended that gambling companies should be more open in providing data sets to researchers and those commissioning research⁸.

The UK Government's [Review of the Gambling Act 2005](#) is seeking views on whether the consumer data collected by operators could be better deployed to support the government's objectives in relation to gambling and gambling related harm⁹. A [recent evidence](#) review on gambling-related harms by Public Health England (PHE) has also concluded that evidence on gambling harms was limited. It recommended that further research is needed including a systematic review of longitudinal studies of risk factors in adults; longitudinal studies on if or how community and societal factors can influence harmful gambling; and longitudinal quantitative studies on harms¹⁰.

There is also comparatively less easily accessible collated information on the gambling industry in Northern Ireland. The Gambling Commission produces regular gambling industry statistics providing data on topics such as [Gross Gambling Yield \(GGY\)](#) by sector, GGY for the different categories of gaming machines; information on the number of betting shops; contribution to good causes from large society lotteries etc¹¹. There does not appear to be similar easily accessible information for the industry in Northern Ireland.

To enable a more robust analysis of gambling and the gambling industry in Northern Ireland, there is arguably a need for more regular data to be collected and in a format that enables comparisons to be made with other local jurisdictions. If not already carried out, an assessment of the availability of local academic research on gambling prevalence and treatment services, including identifying gaps in knowledge, would also be beneficial. It should be acknowledged that there is a rich and expanding resource of academic research in Great Britain from which inferences can be drawn. However, an insight into local circumstances would be beneficial.

Another issue worthy of consideration is the extent to which gambling related harm is included and addressed within key strategies relating to issues such as health, crime, poverty and deprivation, child protection etc. The lack of focus on gambling related harm in some government strategies and in key longitudinal surveys across the UK and Ireland was a recurring theme that emerged from a recent UK Public Health Network and Institute of Public Health five nations roundtable event on the issue of gambling and public health held in October this year.

⁸ House of Lords. Select Committee on the Social and Economic Impact of the Gambling Industry. Report of Session 2019-21. Gambling Harm – Time for Action. <https://committees.parliament.uk/publications/1700/documents/16622/default/>

⁹ Department for Digital, Culture, Media & Sport. Review of the Gambling Act 2005. Terms of Reference and Call for Evidence. 8 December 2020. www.gov.uk/government/publications/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence

¹⁰ Public Health England. Gambling-related harms evidence review: summary. 30 September 2021.

www.gov.uk/government/publications/gambling-related-harms-evidence-review/gambling-related-harms-evidence-review-summary

¹¹ For a definition of Gross Gambling Yield (GGY) and information on how it is calculated see the Gambling Commission website www.gamblingcommission.gov.uk/guidance/regulatory-returns-guidance/rr-guidance-how-to-calculate-your-gross-gambling-yield-ggy

It should be noted that there are a number of recent developments that will add to the much-needed evidence base in relation to gambling, gambling related harm and the availability of treatment services in Northern Ireland. Firstly, the results of the Department for Communities 2019 '[Consultation on the Regulation of Gambling in Northern Ireland](#)' provided a degree of insight into public opinion on a wide range of issues such as the opening hours of bookmaking offices and commercial bingo clubs; enforcement; advertising; lotteries; gaming machines stakes and prizes; Fixed Odds Betting Terminals (FOBTs); and a future regulatory framework for Northern Ireland. The results of the Departmental consultation (November 2020) are available [here](#)¹².

A second valuable source of information will be the report of the inquiry of the recently formed [All Party Group on Reducing Harm Related to Gambling](#). This is a group comprising of a cross-party membership of Northern Ireland Assembly MLAs. Its '[Inquiry into the Regulation of Gambling in Northern Ireland](#)' involved participation from a range of people including, for example, individuals and families affected by gambling related harm and mental health treatment and prevention providers¹³. The report, when it is published, will likely provide insights, including a greater local understanding, on issues such as the availability and accessibility of gambling; treatment services; and public health messaging. The third important source of information will flow from the Northern Ireland Assembly Committee for Communities' Call for Evidence on the Betting, Gambling, Lotteries and Amusements (Amendment) Bill.

2 What's in the Bill? - the provisions at a glance

Table 1 below provides an overview of the substantive clauses of the Bill (i.e. Clauses 2 to 15). For contextual purposes the table provides information on how the law currently operates in relation to those issues in Northern Ireland and touches briefly on some similar provisions in other jurisdictions. All references to the "1985 Order" mean The Betting, Gaming, Lotteries and Amusements (NI) Order 1985.

Table 1: The substantive clauses of the Betting, Gaming, Lotteries and Amusements (Amendment) Bill as introduced)

Clauses of the Bill	How the law currently operates
Betting and Bookmaking Offices	
<p>Clause 2: removes the existing Sunday and Good Friday trading prohibition of licensed bookmaking shops.</p>	<p>Article 31(1) of the 1985 Order current states that a licensed bookmaking office is prohibited from being open or kept open for the transaction of business at any time on Sunday, Good Friday and Christmas Day. Clause 1 will permit licensed bookmaking offices to open on Sundays and Good Friday but the</p>

¹² Department for Communities. Consultation on regulation of gambling in Northern Ireland. Consultation survey report. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-consultation-regulation-gambling-survey-report.pdf

¹³ All Party Group on Reducing Harm Related to Gambling. www.gamharmapg.org/ Note that this is not an official website of the Northern Ireland Assembly. All Party Groups are informal groups of MLAs with a common interest in specific issues.

	prohibition on Christmas Day opening/trading will remain in place (including Christmas Days that fall on a Sunday).
Clause 3: amends the definition of betting work in Schedule 8A of the 1985 Order (rights of betting workers as regards Sunday working) to include work in a licensed bookmaking office .	Schedule 8A of the 1985 Order contains protections for those who do not wish to work on a Sunday in the on-course sector of the bookmaking industry. The Bill's EFM explains that the purpose of Clause 3 is to ensure that the "rights of individual's employed in a licensed bookmakers' office now mirror those of individuals who work at a track for a bookmaker with respect to Sunday working". Further information on the rights of workers in relation to Sunday working rules is available from the NI Direct website here and the NI Business Info website here .
Clause 4: amends Article 44 of the 1985 Order to permit the operation of pool betting in licensed bookmaker shops subject to certain specified conditions .	The Department for Communities 2019 consultation ¹⁴ paper on the regulation of gambling in NI explains that pool betting " <i>is a form of betting where gamblers pay a fixed price into a pool then make a selection on the outcome. There are no odds involved; each winner's pay off depends simply on the number of gamblers and the number of winners</i> ". Currently Article 44 of the 1985 Order states that no person shall carry on any pool betting business otherwise than on a licensed racetrack. The exception to this is by means of a totaliser (tote) on a licensed track. The 2019 consultation paper explains that a totaliser is a " <i>computer that registers bets and divides the total amount bet among those who won</i> ". The paper further states that it " <i>is understood to have become common practice for local bookmakers to allow pool betting, such as Tote Direct, within their offices</i> ". It notes that such pool betting is permitted in bookmakers in Great Britain and the Republic of Ireland. Clause 4 will remove the prohibition, allowing bookmakers to operate pool betting subject to certain conditions.
Licensed bingo clubs	
Clause 5: amends the eligibility requirements in relation to persons who may take part in bingo at bingo clubs.	Article 75(3) of the 1985 Order specifies who may participate in bingo. At present, the law only permits eligible members (for whom at least 24 hours have elapsed since applying for membership) and their guests to participate in bingo in a licensed bingo club. The 2019 consultation states that the rule is "generally considered to be out-of-date" and "an unnecessary" burden on both players and club owners. Clause 5 will also remove the current exemption in the 1985 Order that permits cleaners or certain other employees (as may be prescribed by regulations) to play bingo. This means that cleaners etc. will not now be permitted to play bingo in that premises.

¹⁴ Department for Communities. Regulation of Gambling in Northern Ireland. Consultation Document. December 2019.
www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-consultation-regulation-gambling.pdf

<p>Clause 6: removes the existing Sunday and Good Friday trading prohibition on bingo clubs and the prohibition on gaming in bingo clubs on Sunday and Good Friday.</p>	<p>Restriction on permitted opening Similar to the current situation with licensed bookmaking offices, Under Article 76(7) bingo cannot take place on any bingo club premises on any Sunday, Good Friday or Christmas Day. Clause 6 proposes to remove the Sunday and Good Friday restrictions (the restriction on Christmas Day will remain in place).</p> <p>Restrictions on gaming machines Article 108(3) currently does not permit gaming machines to be made available for gaming on bingo club premises on any Sunday, Good Friday or Christmas Day. Clause 7 will remove the restrictions on Sundays and Good Friday (the restriction on Christmas Day will remain in place).</p>
Gaming machines	
<p>Clause 7: creates new offences in relation to inviting, causing or permitting a person under the age of 18 to play anything other than a “lower limit gaming machine”. A “lower limit gaming machine” will mean a machine installed on premises for which an amusement permit is in force and where the prize limits comply with those limits established under Article 108(7) of the 1985 Order.</p> <p>Provisions will also be included to make it a defence for a person charged with an offence of this nature to prove that there was good reason to believe that the person under 18 had attained that age.</p>	<p>This is similar to the powers outlined in Section 59 of the Gambling Act 2005 which applies to Great Britain. Section 59 provides that the Secretary of State may by order create an offence of inviting, causing or permitting a child or young person below a specified age to use a Category D gaming machine. Section 46 of the 2005 Act further provides that a person commits an offence if he invites, causes or permits a child or young person to gamble (i.e. a person under the age of 18). Section 46 defines inviting a child or young person to gamble includes intentionally sending them a document which advertises gambling or brings to the attention of a child or young person information about gambling with a view to encouraging them to gamble. The section also outlines which type of gaming and amusements this does not include (e.g. use of category D gaming machines or participation in prize gaming in a non-licensed family entertainment centre etc).</p> <p>Two other particular features of note in relation to the GB legislation. Firstly, the 2005 Act has three specific licensing objectives one of which is to “<i>protect children and other vulnerable persons from being harmed or exploited</i>”. Secondly, the Gambling Commission has produced detailed guidance to licensing authorities on what is expected in terms of children and young people’s access to gaming machines (e.g. separation of different types of gaming machines, adequate monitoring and supervision etc.) – see para 5.13; para 19.4 , para 21.2 of the guidance for further details. There is currently no equivalent statutory objectives and arguably a lack of similar detailed guidance available in Northern Ireland.</p>
Lotteries	
<p>Clause 8: reworks Article 131 of the 1985 Order so as to exclude free to enter prize competition arrangements from the definition of a lottery. It also adds a new section 15A to the 1985 Order setting out</p>	<p>Article 131 of the 1985 Order currently provides that all lotteries that do not constitute gaming are unlawful (with the exception of e.g. the National Lottery).</p>

<p>what does and does not constitute a requirement to pay to participate in order to be deemed a lottery.</p>	
<p>Clause 9: amends Article 137 of the 1985 Order so as to remove the £1 ticket price limit to societies' lotteries and to alter the rules of deductible expenses by providing that the amount that can be deducted is the expenses actually incurred or 20% of lottery proceeds (whichever is the lesser amount).</p>	<p>Many clubs, associations, institutions and other charitable bodies rely on societies lotteries (e.g. the sale of tickets to win a prize) as one of their sources of income. Article 137 of the 1985 Order provides the rules in relation to societies' lotteries. At present the maximum price of a ticket in a societies' lottery is £1. The Department's 2019 consultation states that this often means that charities cannot run raffles with attractive prizes.</p> <p>Article 137(14) and (15) also currently states that the amount of the proceeds of a lottery appropriated on account of expenses (exclusive of prizes) cannot exceed whichever is the lesser amount of (a) the expenses actually incurred or (b) where the whole proceeds of the lottery do not exceed £10k, 20% of those proceeds or where the proceeds exceeds £10k, 15% of those proceeds.</p>
<p>Licences and Permits: residency, age and incorporation requirements</p>	
<p>Clause 10: removes the current residency and incorporated requirements for grant of a bookmaker's licence, bingo club licence, gaming machine certificate or permit. The clause also reduces the lower age limit for granting of the same to 18 years of age.</p>	<p>Residency requirement</p> <p>The 1985 Order currently requires an applicant for a bookmaker's licence, a bingo club licence, a gaming machine certificate or permit, or a lottery certificate to be ordinarily resident in Northern Ireland for at least 12 months prior to the date of application. Clause 10 proposes to remove this requirement.</p> <p>Age requirement</p> <p>The 1985 Order currently requires that holders for the same licences, certificates and permits to be at least 21 years of age. Clause 10 proposes to lower the age limit to 18 years of age.</p> <p>Incorporation requirement</p> <p>The 1985 Order currently requires holders of the same licences and certificates highlighted above to be incorporated (i.e. registered under the Companies Act 2006 in Northern Ireland). Clause 10 substitutes the current requirement for a company to be "registered under the Companies Act 2006" with "a body corporate".</p>
<p>Prize Competitions</p>	
<p>Clause 11: proposes to amend Article 168 of the 1985 Order to specify that a prize competition is not prohibited by Article 168 unless a person is required to pay to participate in the arrangement. A new schedule 15A will be added to the 1985 Order (introduced under Clause 8) that will set out what does and does not constitute a requirement to pay to participate in such an arrangement.</p>	<p>Article 168 of the 1985 Order makes it unlawful to conduct, through any newspaper, or in connection with any trade or business or the sale of any article to the public any competition in which prizes are offered for forecasting the result of either (a) a future event, or (b) a past event the result of which is not yet ascertained or not generally known. The Department's 2019 consultation highlights that a commercial prize competition that does not meet the "skill" requirement may still be lawful as long as there is a free method of entry. Currently, promotional prize draws in which a person must buy a particular product or service in order to win a prize (e.g. a magazine or have a particular bank account as in the</p>

	<p>Halifax Savers Prize Draw) are not considered free draws under the 1985 Order and are therefore currently unlawful.</p> <p>The consultation further highlights that in order to comply with NI law, companies promoting UK-wide prize competitions' association with the purchase of a product or service must currently either exclude Northern Ireland from their competition or offer a free entry route to Northern Ireland participants or wider free entry throughout the UK.</p>
Definition of "cheating"	
<p>Clause 12: replaces the existing definition of "cheating" in the 1985 Order with a new definition. Also introduces a definition of "gambling" for the purposes of Article 169 of the 1985 Order.</p>	<p>Article 169 currently provides the following in relation to cheating <i>"every person who by fraud or cheat in organising or managing or assisting in organising or managing or in providing facilities for any game or in acting as banker for those who play or in playing at, or in wagering on the event of, any game sport, pastime or exercise wins from any other person causes or procures any person to win from another any property shall be guilty of an offence"</i>. The Department's 2019 consultation states that the current offence associated with cheating only applies when someone has actually won through cheating and a person who cheats but does not win is not guilty of an offence.</p> <p>Clause 12 proposes to replace the current definition of cheating with a new definition of cheating. It states that a person is guilty of an offence if they (a) cheat at gambling or (b) does anything for the purposes of enabling or assisting another person to cheat at gambling. For these purposes, it will be immaterial whether a person who cheats (a) improves his chances of winning or (b) wins anything. It also provides that cheating at gambling may consist of actual or attempted deception or interference in connection with (a) the process by which gambling is conducted or (b) a game, sport, pastime or other event or process to which gambling relates.</p> <p>A new definition of gambling is also proposed by Clause 1 in relation to the new definition (i.e. "gambling" means "gaming, betting or participating in a lottery).</p>
Enforceability of gambling contracts	
<p>Clause 13: repeals Article 170 and 171 of the 1995 Order and provides for a contract relating to gambling to be legally enforced subject to it being otherwise lawful.</p>	<p>Article 170 of the 1985 Order currently deals with "gaming and wagering contracts void" and Article 171 with "securities in connection with gaming and wagering illegal". The Department's 2019 consultation explains that the 1985 Order provides that any contract involved in gambling is void and that no legal action should be taken to recover any money won or paid on a wager. It states that in Great Britain, contracts made for gambling purposes are treated in a similar manner to other contracts. In particular, any debts that arise from gambling will be capable of enforcement in the same way as any other personal or business debts. The Gambling</p>

	Commission, however, has the power to void betting contracts in certain circumstances e.g. if it is satisfied that a bet was substantially unfair. Clause 13 provides for a contract relating to gambling to be legally enforced subject to it being otherwise lawful.
Industry Levy	
<p>Clause 14: enables the Department, by way of regulation, to impose a financial levy on applicants for the grant of a bookmaker's licence, bingo club licence, gaming machine certificates or permits, and amusement permits. The clause also makes various provisions for the payment and administration of the levy.</p>	<p>There is currently no mandatory levy operational in GB, however, the legislation does provide for one. Section 123 of the Gambling Act 2005 provides that the Secretary of State may make regulations requiring holders of operating licences to pay an annual levy to the Gambling Commission. It also provides that the Commission shall, with the consent of the Treasury and the Secretary of State, use the levy for purposes relating to, or by providing financial assistance for projects relating to (a) addiction to gambling, (b) other forms of harm or exploitation with gambling, and any of the licensing objectives. Section 123 provides for different methodologies that may be used for the calculation of the levy.</p> <p>A mandatory industry levy (using the powers under Section 123) has not been applied to the gambling industry. Rather funding for research, prevention and treatment for gambling has primarily been provided through <i>voluntary donations</i> to a nominated charity. A recent paper to the Gambling Commission by the Advisory Board for Safer Gambling argues that the current funding system is not fit for purpose and has recommended the establishment of a statutory level¹⁵. The UK Government's review of the Gambling Act 2005 is looking, amongst other issues, whether there is evidence from other jurisdictions on the most effective system of recouping the regulatory and societal costs of gambling (e.g. via statutory levies, taxes, licence fees etc.).</p>
Code of practice	
<p>Clause 15: requires the Department for Communities to issue and publish codes of practice in respect of the manner in which gambling facilities are provided; the arrangements they must follow; how facilities must be advertised and described; the consequences of failing to comply with the code; and procedures for issuing a revising of any code. Clause 15 also introduces a definition of "gambling" for the purpose of this clause. It also requires that, before issuing a code or revising a code, the Department must consult with a range of individuals and organisations.</p>	<p>Similar legislative provisions exist for gambling in Great Britain. Section 24 of the 2005 Gambling Act provides the Gambling Commission with the power to issue one or more codes about the manner in which facilities are provided. Also similar to the legislation relating to codes of practice in GB, Clause 15 provides that such codes are admissible in evidence in criminal proceedings and must be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.</p> <p>The Gambling Commission has published a 'Licence Conditions and Codes of Practice' (LCCP) which set out the requirements that all licensees must meet in order to hold a Gambling Commission licence. It covers a range of activities including betting, bingo, arcades, casinos, gaming machines, gambling software, and lotteries.</p>

¹⁵Advisory Board for Safer Gambling. Advice to the Gambling Commission on a statutory levy. 1 September 2020. www.gamblingcommission.gov.uk/print/advice-to-the-gambling-commission-on-a-statutory-levy

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This table provided a short summary of the clauses. Section 5 of this paper explores the clauses in further detail, making comparisons with the law in other jurisdictions where relevant, and identifies some potential issues that may merit further consideration.

3 Gambling in Northern Ireland: regulation and prevalence

This section of the paper provides an overview of how gambling is regulated in Northern Ireland and in other jurisdictions. It also explores gambling prevalence rates including 'problem gambling' and also looks very briefly at the connection between gambling, age and gender.

An overview of gambling legislation and regulation in Northern Ireland

Gambling in Northern Ireland (other than the National Lottery¹⁶) is regulated by the [Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985](#) and its subordinate legislation. The 1985 Order is broadly modelled on much older GB law (i.e. the Betting, Gaming and Lotteries Act 1963; the Gaming Act 1968 and the Lotteries and Amusements Act 1976). However, these **Acts in GB have long since been repealed and replaced** by the [Gambling Act 2005](#) which provides a new regulatory regime for gambling in Great Britain. The 2005 Act was designed to consolidate and reform existing gambling law including the provision of a regulatory structure for remote (online) gambling. One major constraint associated with the 1985 Order is **that it has not kept pace with rapid technological developments** including the increasing number of gambling services that are now available online and the associated impact that this has on gambling-related harm.

The current legislative framework for land-based gambling in Northern Ireland is **arguably more conservative than in Great Britain**. For example, in Northern Ireland bookmakers and commercial bingo clubs are currently prohibited from opening on a Sunday and Good Friday unlike their GB counterparts; the stakes and prizes for gaming machines in Northern Ireland are comparatively much lower; and the law currently does not permit high stakes commercial gaming in Northern Ireland such as that associated with casinos. The Gambling Act 2005 relaxed or liberalised many of the restrictions on gambling in GB. For example, the Act introduced new categories of casino and applied a new and less restrictive regime for gaming machines stakes and prizes.

However, the Gambling Act 2005 also introduced what is arguably in many respects an enhanced regulatory structure in comparison to that which currently exists in Northern

¹⁶ The National Lottery is a reserved matter and is legislated from Westminster.

Ireland. This included the establishment of a single regulatory body known as the [Gambling Commission](#), a non-departmental public body whose powers primarily extend to England, Scotland and Wales. It was set up to:

- advise Government on gambling policy;
- control and regulate commercial gambling in GB;
- enforce the law on gambling; and
- promote socially responsible gambling.

The work of the Commission is funded by fees set by the Department for Digital, Culture, Media and Sport. The fees are paid by the licensed organisations and individuals. The work of the Gambling Commission on The National Lottery is funded by a grant from the National Lottery Distribution Fund¹⁷. Notably there are also **plans to establish an independent gambling regulator in the Republic of Ireland** as part of a much wider programme of gambling reform. The Minister for Justice has recently announced that the regulator may be established in early 2023 and that it would have a range of regulatory and enforcement powers¹⁸.

It should be noted, however, that criticism has been levelled at the adequacy of the Gambling Commission's current regulatory powers and the funding available to it to carry out its activities. For example, a recent House of Lords committee report entitled '[Gambling Harm – Time for Action](#)' recommended that the Government should work with the Commission to devise a new funding structure in order to provide it with more flexibility to allow it to react and adapt to fast changing regulatory requirement. The Committee also felt that the fines and penalties currently imposed by the Gambling Commission do not make sufficient impact on large corporations and that there should be a triennial review of the work of the Commission¹⁹. The Gambling Commission's powers and resources is one of a number of issues consulted upon as part of the Department for Digital, Culture, Media & Sport consultation on the [review of the Gambling Act 2005](#)²⁰.

There is **no similar single independent regulatory body for gambling in Northern Ireland**. The courts and district councils in Northern Ireland licence various gambling activities, with the exception of track licences which are granted by the Department for Communities. Responsibility for the enforcement of the legislation lies with the Police Service of Northern Ireland (PSNI). The Department for Communities [2019 consultation](#) on the regulation of gambling in Northern Ireland did not explore the matter of an independent regulator in depth as it maintained that this was a matter for a

¹⁷ Gambling Commission. How we are funded. www.gamblingcommission.gov.uk/about-us/guide/page/how-we-are-funded

¹⁸ Houses of the Oireachtas. Question to the Minister for Justice. 30 September 2021. www.oireachtas.ie/en/debates/question/2021-09-30/305/

¹⁹ House of Lords. Select Committee on the Social and Economic Impact of the Gambling Industry. Gambling Harm – Time for Action. 2 July 2020. Report of Session 2019-21. <https://committees.parliament.uk/publications/1700/documents/16622/default/>

²⁰ Department for Digital, Culture, Media and Sport. Review of the Gambling Act 2005: Term of Reference and Call for Evidence. December 2020. www.gov.uk/government/publications/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence

Minister to make a determination on. It did, however, outline **four potential approaches** including continuing the current position (i.e. no regulatory body); establishing an independent body; establishing a new gambling regulator's office within a government department; or seeking the support of another regulator to carry out the regulatory functions required in Northern Ireland²¹.

When considering the regulatory infrastructure for gambling in Northern Ireland it would be remiss not to mention the significance of an infrastructure for the support and treatment of individuals experiencing gambling related harm and their families. Exploring options for the creation of a joined up treatment system is one aspect of the Northern Ireland Assembly [All Party Group on Reducing Harm Relating to Gambling](#) terms of reference for its [inquiry](#) into gambling in Northern Ireland²². Further information on the current and future provision of treatment and support services may emerge from evidence provided to the Committee for Communities during its consideration of the Bill and from the findings of the All Party Group inquiry report.

There is no specific strategy for the prevention and minimisation of gambling related harm in Northern Ireland. However, gaming and gambling addiction is mentioned in the context of community based mental health services in the new Northern Ireland [Mental Health Strategy 2021-2031](#). The strategy also identifies the need to consider support for individuals with mental health needs holistically to ensure that those who have a dual diagnosis of mental ill health and an addiction do not fall between gaps in services²³. Responding to the needs of those impacted by gambling related harm most likely will require a cross-Departmental, multi-agency, and multi-sectoral approach.

Gambling prevalence in Northern Ireland

There have been two gambling prevalence surveys conducted in Northern Ireland, in [2010](#) and [2016](#). These were commissioned by the Department for Social Development and the Department for Communities respectively.

Gambling prevalence

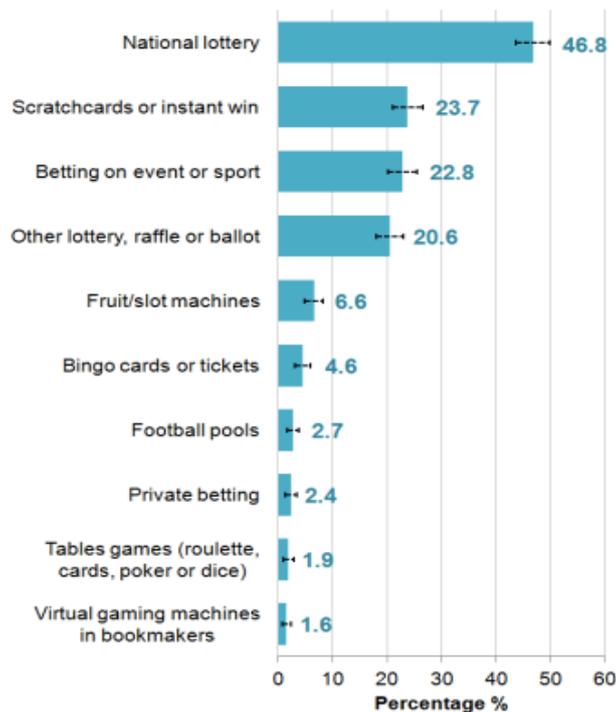
The 2016 survey revealed that in terms of **gambling participation** (in the last 12 months) Northern Ireland had a comparable gambling participation rate to Scotland (67.2% and 67.8% respectively) but higher than in England (62%) and Wales (61.3%). As Figure 1 demonstrates, in Northern Ireland, the most common forms of gambling that people participated in (within the last 12 months) were the National Lottery (46.8%), Scratch cards or instant win (23.7%) and betting on an event or sport (22.8%).

²¹ Department for Communities. Regulation of Gambling in Northern Ireland. Consultation Document. December 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-consultation-regulation-gambling.pdf

²² All Party Group on Reducing Harm Related to Gambling. www.gamharmapg.org/

²³ Department of Health. Mental Health Strategy 2021-2031. www.health-ni.gov.uk/sites/default/files/publications/health/doh-mhs-strategy-2021-2031.pdf

Figure 1: Gambling participation by gambling type, 2016



Source: extracted from NISRA & DfC, [2016 Northern Ireland Gambling Prevalence Survey](#)

‘Problem gambling’

Problem gambling is defined in the survey as “gambling to a degree which comprises, disrupts or damages family, personal or recreational pursuits”. The prevalence of problem gambling was assessed using a globally-used validated population measure known as the Problem Gambling Severity Index (PGSI). The 2016 survey report highlights that most respondents to the survey (86.1%) were considered to be ‘non problem gamblers’. However, **2.3% were considered to be a ‘problem’ gambler** and **4.9% a ‘moderate risk’ gambler**. The survey report provided comparisons with PGSI scores globally and this is outlined in Figure 2. As is evident from the data, the 2016 survey revealed that Northern Ireland had the highest estimated rate of problem gambling in the UK. Although the survey does recommend caution be taken when considering the figures as variations in methodologies exist, such as sample size. Further information on the methodological factors affecting the estimates of gambling harm in the UK is available from [recent research](#) published in May 2021 by the London School of Economics²⁴.

²⁴ Sturgis, P. & Kuha, J. Methodological factors affecting estimates of the prevalence of gambling harm in the United Kingdom a multi-study survey. London School of Economics. May 2021. www.begambleaware.org/sites/default/files/2021-05/Methodology_Report_%28FINAL_14.05.21%29.pdf

Figure 2: Comparison of PGSI scores globally (problem gambling)



Source: extracted from NISRA & DfC, [2016 Northern Ireland Gambling Prevalence Survey](#)

The 2016 prevalence survey is insightful in that it demonstrates that the vast majority of the population in Northern Ireland are likely to engage in recreational gambling.

The number of ‘problem’ and ‘at risk’ gamblers is small but significant in terms of the impact that it can have on the individual, their families, friends, communities, and even employers. Recent research conducted by Public Health England entitled ‘[Harms associated with gambling: an abbreviated systematic review](#)’ found that most of the available evidence on harms focuses on harms experienced directly by people who were gambling. There was some qualitative evidence on the harms gambling caused to families, friends and colleagues but less available evidence (either quantitative or qualitative) on wider societal harms. The study concluded that²⁵:

- There is adequate evidence, mostly from qualitative studies, that **gambling causes financial and relationship harms** for adults and close associates, especially partners and children;
- The detrimental impact of **gambling ripples outwards**, detrimentally affecting wider **family and friendship networks**;
- There is some evidence, mostly from qualitative studies, that **gambling causes employment and educational harms and crime**, although it notes that further

²⁵ Public Health England (2021). Harms associated with gambling. An abbreviated systematic review. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1020652/Gambling-evidence-review_harms-report.pdf

high-quality longitudinal studies are needed to confirm these findings and the proportion of gamblers affected;

- There is evidence from two longitudinal studies that **gambling causes suicidal events** (attempts, ideation and death by suicide) among adults.
- There appears to be a **relationship between gambling, mental health disorders and alcohol, tobacco and drug use**, but the exact nature of this relationship is unclear.
- The harms that gambling can cause can be “**significant, wide-reaching and international and may exacerbate inequalities**” and that these can have a long-term negative impact on the children of some problem gamblers.

Industry Data

The Gambling Commission publishes data on gambling prevalence at more regulator intervals and on a wider range of issues in comparison to what is available in Northern Ireland. For example, the Commission publishes data on the **gambling industry in GB** including information on **Gross Gambling Yield (GGY)**²⁶. From Apr 2019 to March 2020, the total GGY for gambling in Great Britain was £14.2 billion and the total online GGY of the remote/online sector was £5.7 billion²⁷. There does not appear to be similar easily accessible published information on the industry in Northern Ireland. The Gambling Commission also publishes data on enforcement action in Great Britain. Again, there does not appear to be a similar accessible report that compiles enforcement data in Northern Ireland. Although it should be noted that the Gambling Commission is likely to have accessible to it a range of expertise and finance to support this work. Different elements of gambling in Northern Ireland come under the remit of several departments.

Data on children and young people

The Gambling Commission also publishes the results of an annual [Young People and Gambling Survey](#) for Great Britain; there does not appear to be a similar survey in Northern Ireland. The latest Gambling Commission survey (for 2020) was impacted by the COVID-19 pandemic and school closures. However, a pre-COVID annual survey (2019) highlighted that **11% of 11 to 16 year olds stated that they spent their own money on gambling activities** in the seven days prior to taking part in the survey. Young people who said that they had gambled in the past seven days spent an average of £17 on gambling during this period. Over the past 12 months, 36% of 11-16 year olds participating in the survey stated that they have spent their money on gambling (down from 39% in 2018). 12% of participants stated that they had played an online gambling-style game, almost half of those did so through an app. 69% stated

²⁶ For further information on Gross Gambling Yield and its calculation see www.gamblingcommission.gov.uk/guidance/regulatory-returns-guidance/rr-guidance-how-to-calculate-your-gross-gambling-yield-ggy

²⁷ Gambling Commission. Annual Report and Accounts 2020 to 2021. www.gamblingcommission.gov.uk/manual/annual-report-and-accounts-2020-to-2021/annual-report-20-21-performance-report-overview-of-the-british-gambling

they had seen or heard gambling adverts or sponsorship, with 83% of those stating that it had not prompted them to gamble²⁸.

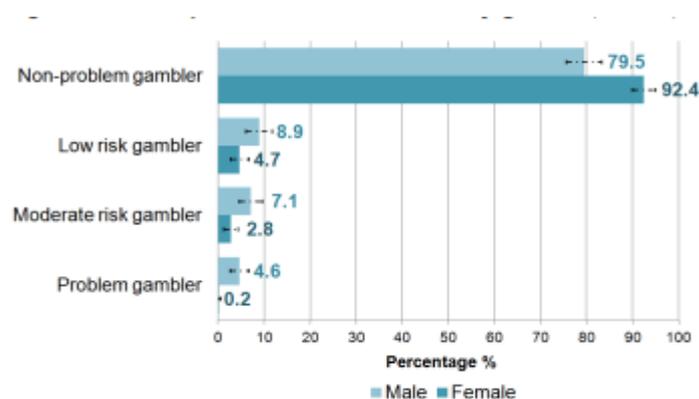
A total of 52% of young people stated that they have heard of 'in game items', of which 44% stated they have paid money to open "[loot boxes](#)". 1.7% of the young people were classified as 'problem' gamblers and 2.7% as "at risk" gamblers using the DSM-IV-MR-J screen²⁹.

Only half of the young people surveyed stated that someone had spoken to them about the problems that gambling can lead to³⁰. The same level of detail regarding young people's gambling activities, problem and at-risk gambling, and knowledge of gambling related risk is not yet available for Northern Ireland. However, what is apparent is that there has been increased momentum in terms of educating young people on the risks of gambling. For example, in December 2020, [GamCare](#) announced that it was extending its [Young People's Gambling Harm Prevention Programme](#) to Northern Ireland³¹. [Gambling with Lives](#) also recently announced (September 2021) that it has launched a youth gambling education programme which will be piloted in schools in Essex, Manchester and Northern Ireland³².

Age, gender and gambling

As evident from Figure 3, the 2016 Northern Ireland Gambling Prevalence Survey found that a higher percentage of males compared to females were categorised as 'moderate risk gamblers' and 'problem gamblers'.

Figure 3: Comparison of PGSI scores by gender (n=1003)



Source: extracted from NISRA & DfC, [2016 Northern Ireland Gambling Prevalence Survey](#)

²⁸ Gambling Commission. Young People and Gambling 2019. www.gamblingcommission.gov.uk/statistics-and-research/publication/young-people-and-gambling-2019

²⁹ The juvenile multiple response version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV).

³⁰ Ibid.

³¹ GamCare. Young People's Gambling Harm Prevention Programme expands to Northern Ireland. 8 December 2020.

³² Gambling with Lives. GwL launches pioneering gambling education programme. September 2021. www.gamblingwithlives.org/event

Research commissioned by the Gambling Commission ‘[Exploring the gambling journeys of young people](#)’ (aged 16-30) found that young people are particularly vulnerable to experiencing gambling harm after achieving independence from their parents and moving out of home³³. The recent testimonies of a number of professional football players with gambling problems would appear to corroborate these findings with some tracing the beginning of their gambling addiction to leaving home and spending large periods of time by themselves in hotels or digs³⁴.

There has been somewhat of an increase in focus in more recent years on the impact of gambling on women both in terms of women as problem or at-risk gamblers, and on women as partners or family members of those who are addicted to gambling. Perceiving problem or at-risk gambling as a “male issue” arguably contributes to disguising the impact that it has on women and their children. GamCare estimates that³⁵:

“...for every problem gambler, between 4 and 7 other people are negatively, often significantly, impacted by the problem. But we are worried that problem gambling is a much more hidden problem for women, and we want to encourage more women to feel comfortable to seek support. Feelings of shame about gambling problems often hold people back from talking about the issue, and this could be even worse for women.”

However, there is still an argument that few studies have examined the impact of gambling on the lives of women, with limited understanding of factors that influence women’s engagement with gambling products and the impact of “industry tactics” on women³⁶.

The impact of COVID-19 on gambling participation

Lastly, there does not appear to be any empirical evidence on the impact of the COVID-19 pandemic on gambling prevalence and gambling-related harm in Northern Ireland. The response to the COVID-19 pandemic and subsequent closures will have impacted on participation in land-based gambling venues such as betting shops, bingo clubs, horseracing tracks and facilities with gaming machines. However, online gambling sites continued to be operational during this period.

With a lack of local data, we can only draw some inferences from GB data. There is some evidence to indicate that more people experiencing ‘problem gambling’ are seeking access to treatment and support within the past year. For example, GambleAware’s Annual GB Treatment and Support [Survey 2020](#), highlights that

³³ Gambling Commission. Exploring the gambling journeys of young people. www.gamblingcommission.gov.uk/statistics-and-research/publication/exploring-the-gambling-journeys-of-young-people

³⁴ BBC Sport. Paul Merson on gambling addiction: ‘I wouldn’t wish this on anybody’

³⁵ GamCare. Blog Article. Why we’re focusing on women and problem gambling. 26 April 2019. www.gamcare.org.uk/news-and-blog/blog/why-were-focusing-on-women-and-problem-gambling/

³⁶ McCarthy, S. Thomas, SL, Bellringer, ME, & Cassidy, R. Women and gambling related harm: a narrative literature review and implications for research, policy and practice. Harm Reduction Journal. 16, Article number 18 (2019). <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-019-0284-8>

around six in ten (63%) of ‘problem gamblers’ said that they had used some form of treatment, advice or support in the past 12 months, compared to just over half (54%) in 2019³⁷. Public Health England has produced a rapid review of the [impact of COVID-19 on gambling behaviour and associated harms](#) concluded that there was consistent evidence suggesting that overall gambling reduced during the initial COVID-19 lockdown period (March to June 2020). However, a small proportion of people gambled more during this period, attributing this to boredom and more free time. However, PHE note that most of the studies it used in the review relied on self-report data and therefore results should be interpreted with caution³⁸.

Qualitative research commissioned by the Gambling Commission ‘[Exploring the impact of Covid-19 on gambling behaviour](#)’ recommended that two important issues are considered for the future in terms of the impact of COVID-19 on gambling behaviour, i.e.³⁹.

- *The impact on behaviours as things return to ‘normal’: it is likely that many have picked up new gambling routines and habits during lockdown that may be hard to change as things return to normal, even as normal spending on other things resume. This could have serious consequences for people’s finances.*
- *Younger audiences: It appears that younger audiences are most at risk of spending more time and money on gambling and are also less likely to be concerned about this behaviour. Communications about gambling risks may need to look at targeting this group specifically.*

The remainder of this Bill Paper will examine the clauses of the Betting, Gaming, Lotteries and Amusements (Amendment) Bill (as introduced) in further detail beginning with a brief overview of some of the lead up to the Bill including public consultations. The final section of the paper provides an overview of some of the issues that are not addressed in the Bill.

4 Background to the Bill – public consultation

In late 2009 the then Minister for Social Development, Margaret Ritchie MLA initiated a review of the law on gambling in Northern Ireland beginning with a period of information gathering which included the publication of the first gambling prevalence survey

³⁷ GambleAware. Annual GB Treatment and Support Survey 2020 published. <https://www.begambleaware.org/news/annual-gb-treatment-and-support-survey-2020-published>

³⁸ Public Health England. The impact of COVID-19 on gambling behaviour and associated harm. A rapid Review. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1020748/Gambling_review_COVID_report.pdf

³⁹ Gambling Commission. Exploring the impact of Covid-19 on gambling behaviour. Research commissioned to explore the impact coronavirus has had on gambling behaviours. www.gamblingcommission.gov.uk/statistics-and-research/publication/exploring-the-impact-of-covid-19-on-gambling-behaviour

undertaken in Northern Ireland (i.e. the [NI Gambling Prevalence Survey 2010](#)⁴⁰). The review also included a consultation paper on the '[Future Regulation of Gambling in Northern Ireland](#)' published in February 2011⁴¹. A statistical analysis of the consultation responses and key issues emerging from the responses are available to download [here](#)⁴².

On 10 January 2013, the then Minister for Social Development, Nelson McCausland MLA, announced that following a meeting with the NI Executive in which he outlined his proposals for gambling reform, he proposed to amend the law in Northern Ireland to⁴³:

- include a new section in the law dealing with the protection of children and young people;
- enable residents in Northern Ireland to participate in promotional prize draws;
- adopt in Northern Ireland the gaming machine categories and standards used in Great Britain;
- lift some advertising restrictions;
- ensure that bets placed in bookmakers' offices are legally binding rather than just a "Gentleman's agreement"; and
- Retain the current ban on casinos.

The Committee for Social Development received a [briefing](#) on the Bill on the 7 February 2013⁴⁴. The then Minister for Social Development had indicated that it was his intention to introduce a Gambling Bill to the Assembly before summer 2015 recess⁴⁵. However, due to competing priorities (the Pensions Bill, a housing amendment Bill, the Houses in Multiple Occupation Bill and the Regeneration Bill) the then Minister stated he was unable to progress the Bill during the last Assembly 2011-2016 mandate⁴⁶.

Given the amount of time that had elapsed since the publication of the February 2011 consultation paper, the Department for Communities launched a [further consultation](#) in December 2019. There were a total of 382 responses to the consultation and the consultation survey report can be downloaded [here](#) and summary response tables can be downloaded [here](#). With no Minister in place at the time the consultation was published, the consultation did not contain any proposals but rather sought views from

⁴⁰ NISRA & DSD. Northern Ireland Gambling Prevalence Survey 2010. www.gamcare.org.uk/news-and-blog/news/young-peoples-gambling-harm-prevention-programme-expands-to-northern-ireland/http://doc.ukdataservice.ac.uk/doc/7954/mrdoc/pdf/7954_ni_gambling_prevalence_survey.pdf

⁴¹ Department for Social Development. Future Regulation of Gambling in Northern Ireland. Consultation Document. February 2011. www.communities-ni.gov.uk/consultations/future-regulation-gambling-northern-ireland

⁴² See www.communities-ni.gov.uk/consultations/future-regulation-gambling-northern-ireland

⁴³ Department for Social Development. News Release. 'McCausland announces plans to update gambling laws'. 10 January 2013. <https://wayback.archive-it.org/11112/20150609124403/http://www.northernireland.gov.uk/index/media-centre/news-departments/news-dsd/news-releases-dsd-january-2013/news-dsd-100113-mccausland-announces-plans.htm>

⁴⁴ Northern Ireland Assembly. Official Report. Committee for Social Development. DSD Briefing: Betting, Gaming, Lotteries and Amusements Bill. 7 February 2013. www.niassembly.gov.uk/assembly-business/official-report/committee-minutes-of-evidence/session-2012-2013/february-2013/betting-gaming-lotteries-and-amusements-bill--dsd-briefing/

⁴⁵ Assembly Question for Written Answer AQW 374433/11-15.

⁴⁶ Assembly Question for Written Answer AQW 52859/11-16.

all interested individuals and organisations on whether any changes to the law could be made in the future to allow a more flexible and modern framework to develop⁴⁷.

The current Bill's [Explanatory and Financial Memorandum](#) (EFM) states that in relation to the outcome of the consultation:

“It was evident from the consultation that the public believes that existing laws need to be substantially reformed and modernised, and that greater regulation of gambling, including online gambling, is required. Respondents agreed that more needs to be done to protect vulnerable groups (especially children) from problem gambling.

There was a general consensus that the gambling industry should help fund research, education and treatment of problem gamblers through the imposition, if necessary, of a statutory levy”.

The EFM also states that “a clear majority of respondents backed the removal of some restrictions on gambling, these included an amendment of the law to allow casinos to operate in Northern Ireland, the relaxation of bookmaker and bingo club opening hours and some increase to statutory limits on stakes and prizes”. However, it should be noted that whilst the response rate to the consultation (382 responses) was positive, a degree of caution should be used when drawing inferences from the responses to the views of the wider population of Northern Ireland.

Officials from the Department for Communities [briefed](#) the Committee for Communities on the Betting, Gaming, Lotteries and Amusements (Amendment) Bill on 9 September 2021⁴⁸. The Bill was subsequently introduced to the Assembly by the Minister for Communities on 14 September 2021 and [Second Stage](#) of the Bill took place on 27 September 2021.

5 The Clauses of the Bill and potential issues for consideration

This section examines the substantive clauses of the Bill (Clauses 2 to 15) and identifies some potential issues that may merit further consideration. Clauses 1 and 16 of the Bill are not explored as these are the interpretation, short title and commencement respectively.

⁴⁷ Betting, Gaming, Lotteries and Amusements (Amendment) Bill. Explanatory and Financial Memorandum. Para 13. www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/betting-gaming-lotteries-and-amusements-amendment-bill/efm---as-introduced/

⁴⁸ Northern Ireland Assembly. Official Report: Minutes of Evidence. Committee for Communities briefing on the Betting, Gaming, Lotteries and Amusements (Amendment) Bill. 9 September 2021. <http://aims.niassembly.gov.uk/officialreport/minutesofevidencereport.aspx?AgendaId=28303&evidID=14644>

Clause 2: Opening of licensed bookmaking offices on Sunday and Good Friday

Clause 2 contains provisions to remove the existing Sunday and Good Friday trading prohibition on licensed bookmaking offices. The prohibition on trading will remain in place for Christmas Day (including Christmas Days that fall on a Sunday).

Licensed bookmakers in Northern Ireland are currently prohibited from opening for business on any Sunday, Christmas Day or Good Friday under [Article 31](#) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985. In contrast, on-course betting is permitted on Sundays under the 1985 Order (as amended by [The Betting and Gaming \(Northern Ireland\) Order 2004](#)).

Proposals to remove the opening restrictions on licensed bookmaking offices goes back a significant period of time. For example, in December 2006, the then Department for Social Development's consultation paper 'Betting and Gaming Law: Proposed changes including relaxation of Sunday restrictions'⁴⁹ set out three main proposals, i.e.⁵⁰:

- To **remove the prohibition on the opening of bookmaking offices on Sunday** (other than Christmas Day) to retain the prohibition on Christmas Day and Good Friday opening;
- To **restrict Sunday opening hours** from 10:30am to 6.30am; and
- To provide **new employment protection rights for betting workers in bookmaking offices** on the same basis as those currently available to on-course betting workers in Northern Ireland.

Societal attitudes to gambling and indeed recreation on Sundays and Good Friday has obviously changed considerably since 2006. The arguments in favour of removing the prohibitions on bookmaking offices are, however, likely to remain the same today as they were in 2006, i.e..

- the proposals will bring Northern Ireland on a more equal footing with the law in Great Britain and the Republic of Ireland;
- the growth in online gambling has resulted in existing legislation becoming unfair to a much longer established sector of the betting industry;
- the continued prohibition of Sunday betting in Northern Ireland may encourage gambling with illegal bookmakers and thus lead to a loss of revenue for bookmakers and the Treasury;

⁴⁹ Department for Social Development (2006). Betting and Gaming Law: Proposed changes including relaxation of Sunday restrictions.

⁵⁰ Information extracted from 2006 consultation responses in Murphy, E. Betting and Gaming Law: the relaxation of Sunday restrictions in Northern Ireland and other jurisdictions. Northern Ireland Assembly Research and Information Service. June 2009.

- the impact of restrictions is particularly noticeable for local bookmakers in border areas where customers cross the border to place bets in the Republic of Ireland;
- that the proposals may lead to increased employment opportunities and inward investment in Northern Ireland; and
- with the growth of major sporting events on a Sunday a relaxation on Sunday opening hours would meet customer demand.

Some of the arguments against removing the prohibitions are the same as those expressed in 2006. For example, the religious significance on Sunday and Good Friday and concern over the impact on gambling-related harm.

What is the position in other jurisdictions?

In summary, off-course bookmaking premises are permitted to open for trading on Sundays in Great Britain and the Republic of Ireland. They are permitted to open for trading on Good Friday in Great Britain but not in the Republic of Ireland. They are not permitted to open on Christmas Day in either jurisdiction.

Great Britain

Gambling facilities in off-course betting premises may not be offered between the hours of 10pm to 7am, Monday to Sunday⁵¹⁵². In other words, they are permitted to open just after 7:00am and close just before 10:00pm any day of the week, including Sundays. These are default conditions attached to the betting premises licence.

All bookmaking offices in GB must have a premises licence obtained from their local licensing authority. Licensing authorities have the power to amend the default opening hours and to attach certain conditions to premises licences. However, Gambling Commission [guidance](#) states that whilst licensing authorities have flexibility in relation to default conditions they should, however, note *“that default conditions are intended to reflect the normal industry operating practices”*. Furthermore, it adds that where the conditions placed on the premises licence are more restrictive the licensing authority *“should ensure that they have clear regulatory reasons for doing so”*⁵³.

There are no restrictions on opening on Good Friday; this prohibition was lifted in March 2008⁵⁴. However, [section 183](#) of the Gambling Act 2005 retains the prohibition of betting premises to trade on Christmas Day (namely the period of 00.01 hours on the 25 December to 00.00 hours on the 26 December).

⁵¹ The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007. The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007.

⁵² Gambling Commission. Guidance to licensing authorities: betting premises licence conditions. Last updated 13 May 2021. www.gamblingcommission.gov.uk/manual/guidance-to-licensing-authorities/part-19-betting-premises-licence-conditions

⁵³ Gambling Commission. Guidance to licensing authorities. Paragraph 9.3. Last updated 13 May 2021. www.gamblingcommission.gov.uk/print/guidance-to-licensing-authorities

⁵⁴ BBC News. Good Friday opening for bookies. 21 March 2008. <http://news.bbc.co.uk/1/hi/uk/7308075.stm>

Republic of Ireland

Pre-1999, the Republic of Ireland had the same legislative provisions regarding permitting opening for betting premises than those currently applied to off-course bookmaking premises in Northern Ireland. That is, the Betting Act 1931 prohibited the opening of betting shops on Sundays, Good Friday and Christmas Day.

However, the Betting Act 1931 was subsequently amended, and off-course betting shops are permitted to open for the transaction of business on Sundays. However, the prohibition on opening on Good Friday or Christmas Day is still in place. The permitted opening hours are 7:00am to 10:00pm⁵⁵.

A few other interesting issues to note are that the Irish Bookmakers' Association (IBA) announced in August 2021 that it would [update the Code of Practice](#) for safer gambling to incorporate a ban on the use of credit cards, both online and in shops for Irish customers. It also agreed to a pre-watershed whistle-to-whistle advertising ban for live sport⁵⁶.

- Will the Department be putting in place a review mechanism to assess both the positive and negative impact of the relaxation of opening hours? If so, how long after the introduction of the Bill will the outcome of this review be published?
- What will be the permitted opening hours for off-course bookmaking premises on Sundays?
- Will the stakes for Fixed Odds Betting Terminals (FOBTs) in bookmaking offices be amended to reflect the maximum £2 stake as is the case for FOBTs in Great Britain?

Clause 3: Sunday working in a licensed bookmaking office

Clause 3 amends the definition of betting work in Schedule 8A of the 1985 Order (i.e. rights of betting workers as regards Sunday working) to include work in a licensed office.

[Article 53A](#) of the 1985 Order (amended by the Betting and Gaming (NI) Order 2004) makes provisions about the *rights of off-course betting workers* in respect to Sunday working. Information provided by nibusiness.info.co.uk on '[Sunday working](#)' highlights that shop workers are automatically protected from having to work on Sundays. In Northern Ireland this includes **betting workers** who have been with the same employer since 26 February 2004 or earlier, even if they had previously agreed to a contract requiring them to work on Sunday. Employees who are automatically protected can

⁵⁵ Information kindly provided by the Irish Bookmaking Association. See <https://service.betterregulation.com/document/9792>

⁵⁶ Irish Bookmakers Association. Safer Gambling Code. 29 August 2021. www.irishbookmakersassociation.com/bookmakers-agree-credit-card-and-whistle-to-whistle-advertising-bans/

give up this right only by giving a written, signed and dated opting-out notice⁵⁷. Protections in relation to Sunday working currently cover on-course betting workers given that on-course bookmaking offices are currently not permitted to open for trading on a Sunday.

Clause 3 amends the definition of betting working in Schedule 8A of the 1985 Order (rights of betting workers as regards Sunday working) to include work in a licensed bookmaking office. The purpose of this amendment is to provide the same rights of those employed in an off-course bookmakers' office as those individuals who work at a track for a bookmaker with respect to Sunday working.

How will the impact of the new provisions in relation to Sunday working for on-course employees be monitored?

Clause 4: Pool betting

The Department for Communities [2019 consultation](#) on the regulation of gambling highlights that pool betting is “*a form of betting where gamblers pay a fixed price into a pool then make a selection on the outcome. There are no odds involved; each winner's payoff depends simply on the number of gamblers and the number of winners*”. The consultation also notes that there is a general prohibition on pool betting in Northern Ireland except by means of a totalisator (tote) on a licensed track (the consultation notes that a totalisator is a computer that registers bets and divides the total amount bet among those who won). The consultation maintained that it “*is understood to have become common practice for local bookmakers to allow pool betting, such as Tote Direct, within their offices, in line with high street bookmakers in Great Britain and the Republic of Ireland*”.

Clause 4 of the Bill (as introduced) will amend [Article 44](#) of the 1985 Order ('restriction of pool betting') by inserting two new paragraphs:

New paragraph 3A will exempt licensed offices from the restriction that prevents any person, other than a registered pool promoter, from carrying on any pool betting business other than at a licensed track and except by means of a totalisator operated in accordance with Article 45. This will allow bookmakers' offices to run their own pooled bets from their premises. This is subject to conditions set out in new paragraph 3B. The conditions as set out in new paragraph 3B are:

- A person placing pool bet at the licensed premises does so on the same terms and conditions as if the bet were placed by means of the totalisator at the licensed track concerned; and

⁵⁷ Sunday working and night working. www.nibusinessinfo.co.uk/content/sunday-working-rules#:~:text=Shop%20workers%20in%20Northern%20Ireland%20have%20the%20right,apply%20only%20to%20employees%20and%20not%20other%20workers.

- Before receiving a bet by way of the pool betting system, the licensed bookmaker displays at the licensed premises a notice that (a) indicates the name of the licensed track concerned; and (b) contains information corresponding to that which the operator of that track is required to post at the track in accordance with paragraph 3 of Scheme 8 of the 1985 Order.

What is the position in other jurisdictions?

Pool betting in licensed on-course bookmaking offices in Great Britain is permitted under the Gambling Act 2005. Pool betting is also permitted in the Republic of Ireland although unlike in GB, bookmakers in the Republic of Ireland are not required to hold a pool betting licence for certain types of pool betting activity. Further information on pool betting in Great Britain is provided on the Gambling Commission website [here](#). The Gambling Commission states that transparency in pool betting is key in protecting the interest of consumers and its website contains information on [pool betting transparency](#). For example, the Commission expects customers to be provided with information on who their betting contract is with; who is responsible for paying out winnings; and how to make a complaint in relation to a bet⁵⁸. The Gambling Commission also offers advice to businesses on [how to calculate](#) their Gross Gambling Yield (GGY) for pool betting activities⁵⁹.

Will there be a review of the impact of extending the permission for pool betting in Northern Ireland (e.g. in terms of its economic impact, impact on local bookmaking offices, impact on gambling related harm)?

Is there an intention to gather data on Gross Gambling Yield (GGY) derived from pool betting in Northern Ireland? This may be an important mechanism in terms of post-legislative scrutiny allowing Members to assess the impact of the change in legislation.

The Gambling Commission states that transparency in pool betting is key in protecting the interests of consumers. How will transparency and adherence to the new conditions be monitored in Northern Ireland?

What mechanism will be in place for a customer who wishes to complain about the conduct of the pool betting or winnings?

Will there be a standalone Code of Practice on pool betting or will it be included within another Code of Practice?

⁵⁸ Gambling Commission. Pool betting consumer transparency. www.gamblingcommission.gov.uk/licensees-and-businesses/page/pool-betting-consumer-transparency

⁵⁹ Gambling Commission. How to calculate your Gross Gambling Yield (GGY) for pool betting. www.gamblingcommission.gov.uk/licensees-and-businesses/page/how-to-calculate-your-gross-gambling-yield-ggy-for-pool-betting

Clause 5: Persons who may participate in a bingo club

[Article 75](#) of the 1985 Order currently outlines who may, and may not, participate in bingo in any bingo club premises. It currently states that no person shall participate in the bingo if (a) he is not present on the premises at the time when the bingo is taking place there, or (b) on behalf of another person who is not present on the premises at that time. Additionally, Article 75(7) prohibits anyone under the age of 18 from participating in bingo in licensed bingo club premises.

[Article 75\(3\)](#) currently states that where bingo takes place on bingo club premises, no person shall participate in the bingo unless:

- they are a member of the bingo clubs (specified in the bingo club licence) who at the time when they begin to take part in the bingo are eligible to take part in it; or
- they are a bona fide guest of a person who is a member of the bingo club and who at the time when the guest begins to take part in the bingo, are eligible to take part in it.

[Article 75\(4\)\(a\)](#) states that a member is eligible to take part in the bingo at any particular time if at that time at **least 24 hours** have elapsed since they applied for membership of the bingo club. Article 75(4)(b) states that a person employed in the bingo club premises in the capacity of a cleaner, or in such other capacity as may be prescribed by regulations, is eligible to take part in bingo as a player.

Clause 5 of the Bill (as introduced) will amend Article 75 of the 1985 Order by repealing certain specified paragraphs which limit the eligibility of persons who may participate in bingo at bingo club premises. As is currently the case, only members of bingo clubs may participate in bingo on the club premises and their bona fide guests. However, members and guests may participate in bingo on the premises irrespective of any time lapsing since the application for club membership was made. In other words, the 24-hour waiting period since application is removed. Article 75(4)(b) in relation to employees is also to be repealed. Therefore, cleaners employed by the bingo club will not now be permitted to play.

What is the position in other jurisdictions?

Great Britain

There is no legal definition of bingo under the Gambling Act 2005 (which applies in Great Britain). However, the Gambling Commission has worked with industry stakeholders to define [three fundamental principles of bingo](#)⁶⁰.

⁶⁰ Gambling Commission. Bingo: Information on bingo and details of when you need a licence to run a bingo game. www.gamblingcommission.gov.uk/licensees-and-businesses/guide/page/fundamental-principles-of-bingo#bingo-must-be-played-as-an-equal-chance-game

In Great Britain, bingo can be offered on alcohol licensed premises, members' clubs and commercial clubs without an operating licence. However, the bingo must (a) be for adults only, and (b) not be linked with games played on other premises. Should such premises seek to offer bingo without the need for an operating licence then there are strict limits on the amount that can be charged for participation and the maximum stake/prize (which is £2,000 per week for alcohol licensed premises and clubs). See [here](#) for further details⁶¹. However, most commercial bingo clubs seeking to exceed the defined limits and prizes/stakes require a [bingo operating licence](#) from the Gambling Commission⁶². Bingo operating licences are also required if an operator wishes to run any kind of online or 'remote' bingo, such as gambling websites or apps.

Although not a requirement in law, the Gambling Commission recommends that close relatives of members of staff in certain roles e.g. callers, managers and cashiers, should not be allowed to play bingo in those clubs.

There is no requirement for an applicant who is applying for membership for a commercial bingo club to wait 24 hours before they can play bingo in that club. The 24-hour waiting period was previously a requirement in Great Britain but was removed by the Gambling Act 2005.

Republic of Ireland

Bingo is currently defined as a form of lottery in Irish law. Under the Gaming and Lotteries Act 1956, a bingo operator can act as an agent of a lottery licence holder but that licence holder *must be a charitable or philanthropic cause* (e.g. a sports club or community group)⁶³. Furthermore, the law requires that at least *25% of the total proceeds of the lottery* (or bingo) must be allocated to a charitable or philanthropic cause⁶⁴.

Widespread reform of gambling laws in Ireland was proposed by way of a [General Scheme of the Gambling Control Bill 2013](#). The Bill never became law, however, it proposed to introduce major changes in relation to bingo including a separation from bingo from lotteries; relaxing the rule that bingo must always be for charitable purposes; the placing of minimum percentages to be allocated in prize money; and separate provision for the licensing of remote (online) bingo⁶⁵. The most recent piece of legislation impacting on bingo was the [Gaming and Lotteries \(Amendment\) Act 2019](#) (which came into effect on 1 December 2020).

⁶¹ Gambling Commission. Bingo in pubs and clubs. www.gamblingcommission.gov.uk/authorities/guide/page/bingo-in-pubs-and-clubs

⁶² Gambling Commission. Bingo: Information on bingo and details of when you need a licence to run a bingo game. www.gamblingcommission.gov.uk/licensees-and-businesses/licences-and-fees/sector/bingo

⁶³ Department of Justice. Statement from Minister Stanton on Concerns of Bingo Hall Operators. www.justice.ie/en/JELR/Pages/PR19000297

⁶⁴ Department of Justice. Applying for a Lottery Licence. Under section 28 of the Gaming and Lotteries Act 1956-2019. www.justice.ie/en/JELR/Lottery_Licence_Information_Note.pdf/Files/Lottery_Licence_Information_Note.pdf

⁶⁵ Department of Justice. News Release. 'Minister Shatter publishes General Scheme of the Gambling Control Bill 2013. www.justice.ie/en/JELR/Pages/PR13000297

Elements of the original version of the Bill were controversial to bingo operators and players and a protest was staged outside as a result⁶⁶. The original version of the Bill stated that at least 25% of takings must go to charitable causes and capped the amount allocated to prizes at 50%. However, the Bill was subsequently amended under the 2019 Act, 25% of the proceeds must still be allocated to charitable or philanthropic purposes and no more than 75% of the total proceeds allocated to prizes. Any payment to expenses cannot exceed 25% of the proceeds (and must come from the 75% prizes percentage amount unless otherwise provided)⁶⁷.

There is a significant [programme of gambling reform](#) proposed for the Republic of Ireland and work is underway on the drafting of a new Gambling Bill with a commitment in the Department of Justice's Statement of Strategy 2021 to provide for a new independent Gambling Regulator⁶⁸. Further changes to the law on bingo could potentially form part of this programme of reform. Therefore, it is difficult to comment at this stage on whether there will be any restrictions on the playing of bingo in the Republic of Ireland.

- What will be the permitted opening hours on a Sunday and Good Friday?
- Will the Department be putting in place a review mechanism to assess both the positive and negative impact of the relaxation of opening hours? If so, how long after the introduction of the Bill will the outcome of this review be published?

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

Clause 6 of the Bill is intended to allow bingo to take place, and gaming machines to be made available on bingo clubs premises, on Sundays and Good Fridays but not on Christmas Day (including Christmas Days which fall on a Sunday).

What is the current law in Northern Ireland?

Similar to the current situation with licensed bookmakers, bingo is prohibited in licensed bingo clubs in Northern Ireland on any Sunday, Christmas Day or Good Friday as determined under Article 76(7) of the 1985 Order. Similarly, [Article 108\(3\)](#) of the 1985 Order also prohibits gaming machines from being made available for gaming in licensed bingo clubs on these days. Clause 6 proposes to remove these prohibitions except for Christmas Day (including where Christmas Day falls on a Sunday).

⁶⁶ Irish Times. New law will not destroy bingo in Ireland, says Minister. 3 December 2019.

www.irishtimes.com/news/politics/new-law-will-not-destroy-bingo-in-ireland-says-minister-1.4103785

⁶⁷ Department of Justice. Minister Browne announces the commencement of the Gaming and Lotteries (Amendment) Act 2019. www.gov.ie/en/press-release/048ef-minister-browne-announces-the-commencement-of-the-gaming-and-lotteries-amendment-act-2019/

⁶⁸ Department of Justice. Gambling. <http://justice.ie/en/JELR/Pages/WP15000254>

What is the position in other jurisdictions?

Permitted opening for commercial bingo in Great Britain

In Great Britain, facilities for gambling must not be provided on premises with a bingo club licence on Christmas Day. There are no restrictions on opening on Sundays or Good Friday. The permitted default opening hours for the provision of bingo facilities in bingo premises is between the hours of 9am and midnight. However, there are no restrictions on permitted hours in respect of access to gaming machines in bingo premises⁶⁹.

Gaming machines on licensed bingo club premises in Great Britain

As stated above, whilst the opening hours for bingo in bingo club premises in Great Britain is restricted (i.e. bingo facilities cannot be offered between the hours of midnight to 9am), there are no restrictions on accessing gaming machines in bingo club premises during this time. However, licensing authorities may choose to reduce these default gambling hours in relating to gaming machines to impose restrictions if it can justify its reasons for doing so (e.g. it promotes one or a number of the three statutory licensing objectives - (i) preventing gambling being a source of crime and disorder (ii) it ensures gambling is conducted in a fair and open way, and/or (iii) it protects children and other vulnerable people from being harmed or exploited by gambling).

In Great Britain, the holder of a bingo club licensed premises is restricted in the number of higher stakes gaming machines permitted on the premises. For example, a premises with a total of 25 gaming machines available for use can only have five or fewer category B3 gaming machines available on that premises (i.e. only 20% of the gaming machines of the premises must be of this type). [Category B3](#) gaming machines have a maximum stake of £2 and a maximum prize of £500⁷⁰. However, premises that were licensed before 12 July 2011 are entitled to make available eight these category B3 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

There are no restrictions on the number of Category C or D machines that can be made available. [Category C](#) gaming machines have a maximum stake of £1 and a maximum prize limit of £100. [Category D](#) machines can include non-money prize crane grabbing machines, coin pushers or penny fall machines each with limited stakes and prizes. Further information on gaming machine categories in Great Britain is available from the Gambling Commission [website](#)⁷¹.

Equipment operated by a bingo operating licence for the purpose of playing bingo e.g. electronic bingo terminals (EBTs) and video bingo terminals (VBTs) are exempt from

⁶⁹ Gambling Commission. Guidance to licensing authorities. Updated 13 May 2021. Para 18.24. www.gamblingcommission.gov.uk/print/guidance-to-licensing-authorities

⁷⁰ Gambling Commission. B3 gaming machines. www.gamblingcommission.gov.uk/licensees-and-businesses/guide/page/b3-gaming-machines

⁷¹ Gambling Commission. Gaming machine categories. Updated 25 June 2021. www.gamblingcommission.gov.uk/licensees-and-businesses/guide/gaming-machine-categories

controls on gaming machines provided they comply with any conditions set by the Gambling Commission and, in the case of EBTs, do not hold gaming machine content⁷².

[Guidance](#) issued by the Gambling Commission establishes certain controls on where gaming machines may be played in licensed bingo premises. For example, premises which offer gaming machines must be “*appropriately supervised*” and it makes clear that premises licensed for the purposes of providing bingo facilities “*is operating as such and is not merely a vehicle to offer high stake and prize gaming machines*”. Both the Gambling Commission and licensing authorities have the power to attach specific conditions to operating or premises licences in circumstances where additional assurance is required⁷³.

Children and young people under the age of 18 are permitted to be on bingo club premises but the premises must have policies in place to ensure that they do not play bingo or Category B machines or Category C machines that are restricted to those over the age of 18. For bingo premises, it is a mandatory condition that under 18s do not have access to areas where Category B or C gaming machines that they are not permitted to play are located. This is achieved through a number of default conditions that require the area to be⁷⁴:

- Separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose: or
- Supervised at all times to ensure that under 18s do not enter the area (supervision may be by physical supervision by a person, CCTV monitoring, or arranging the premises in a way that ensures all parts of the area can be observed).

The guidance further states that licensing authorities must consider whether staff will be available to adequately supervise the gambling premises particularly with respect to the prevention of underage gambling. Where a licensing authority considers the structure or layout of the premises to be an actual or potential problem in terms of supervision it can recommend changes to the positioning of staff, CCTV, the use of floor-walkers and the relocation of counter staff to enable direct line of sight. Should the operator fail to satisfy the licensing authority that risks are sufficiently mitigated, it may consider a review of the premises licence⁷⁵.

What will be the permitted opening hours for Sunday and Good Friday opening in Northern Ireland?

⁷² Gambling Commission. Guidance to licensing authorities. Updated 13 May 2021. Para 18.10. www.gamblingcommission.gov.uk/print/guidance-to-licensing-authorities

⁷³ Gambling Commission. Guidance to licensing authorities. Updated 13 May 2021. Para 18.27 to 18.31. www.gamblingcommission.gov.uk/print/guidance-to-licensing-authorities

⁷⁴ Gambling Commission. Guidance to licensing authorities. Updated 13 May 2021. Para 7.25. www.gamblingcommission.gov.uk/print/guidance-to-licensing-authorities

⁷⁵ Gambling Commission. Guidance to licensing authorities. Updated 13 May 2021. Para 5.13 to 5.18. www.gamblingcommission.gov.uk/print/guidance-to-licensing-authorities

Are there any controls where gaming machines may be physically placed in bingo premises in Northern Ireland to prevent access by under 18s?

What steps do, or should, bingo club premises take to prevent under 18s using gaming machines that they are not permitted to operate?

Will there be a Code of Practice for licensed bingo operators in Northern Ireland? Will this include information on the location and supervision of gaming machines?

Clause 7: Offence of inviting, etc. persons under 18 to play gaming machine

The 1985 Order contains a number of provisions protecting under 18s from gambling related harm. For example:

- Under 18s are prohibited from entering a licensed bookmaking offices and engaging in betting transactions in a licensed bookmaking office.
- Under 18s are prohibited from participating in bingo in a licensed bingo club.
- Under-18s are not permitted in areas of amusement arcades with £25 prize-gaming machines.
- Players of society lotteries must be over the age of 16.

However, there is also no offence within the current 1985 Order associated with causing or permitting a child or young person under the age of 18 to gamble or use a gaming machine that they are not permitted by law to use. **Clause 7** of the Bill (as introduced) proposes to amend the 1985 Order to create a new offence in relation to the playing of machines by a person under the age of 18 (other than a lower limit gaming machine). However, the Clause also contains provisions to make it a defence for a person charged with this offence to prove that there was good reason to believe that the person under 18 had attained that age.

What is the position in other jurisdictions?

Great Britain

[Section 46](#) of the 2005 Gambling Act which applies to Great Britain also makes it an offence to invite, cause or permit a child or young person under the age of 18 to gamble. Inviting includes intentionally sending a person under the age of 18 any document which advertises gambling or brings to the attention of a person under the age of 18 information about gambling with a view to encouraging them to gamble. There are of course, defences to this, e.g. if a gambling operator or person can prove that the information was sent to the young person without their authority or consent. One important difference between the GB and NI legislation, is that the GB legislation contains three 'licensing objectives' one of which is to "*protect children and other*

vulnerable persons from being harmed or exploited by gambling". Additionally, the Gambling Act 2005 contains an entire section on the protection of children and young people. In comparison, provisions relating to the protection of children and young people are dispersed throughout the 1985 Order.

In addition to the legislation, the Gambling Commission has also [published guidance](#) for local authorities which contains information on licensing objective three, i.e. protecting children and other vulnerable person from being harmed or exploited by gambling. It also contains advice on the types of premises children are and are not permitted to access; the types of gaming machines they can and cannot have access to; the layout and supervision of premises to monitor under 18s access; and the employment of under 18s in certain gambling premises. The Gambling Commission states that it will also provide evidence and advice on actions to prevent harm to children and young people as part of the UK Government's review of the Gambling Act⁷⁶. The Gambling Commission also produces [The Licensing Conditions and Codes of Practice \(LCCP\)](#) which gambling operators and licensees much adhere to. The LCCP contains information on the protection of children and vulnerable persons. There is currently no equivalent to the LCCP in Northern Ireland.

Republic of Ireland

Work on drafting a [Gambling Bill](#) in the Republic of Ireland is currently underway and at this stage there are few details on what protections for young people and children under the age of 18 it will contain⁷⁷. However, the previous 2013 General Scheme for a Gambling Bill (which was not enacted) did propose a number of safeguards for children and young people which included a ban on people under the age of 18 gambling or being employed by gambling operators; appropriate player identification measures to be implemented by licensed gambling operators; and taking steps to increase awareness amongst users of how to gamble responsibly and the possible risks from the misuse of gambling⁷⁸. A report to the Irish Government by the Inter-Departmental Working Group on Future Licensing and Regulation of Gambling recommended that sanctions, akin to those available in GB, should be made available to the Irish regulatory authorities against operators who breach licensing conditions in regard to the protection of consumers, particularly children and vulnerable persons⁷⁹.

There are, of course, many issues relating to the protection of children and young people that are not contained within the 1985 Order or the current Bill (as introduced) including issues which are largely not devolved to Northern Ireland such as advertising regulation. These issues are explored further in the final section of this Bill paper which

⁷⁶ Gambling Commission. Review of actions to prevent harm to children and young people.

www.gamblingcommission.gov.uk/about-us/reducing-gambling-harms/actions-map/action/PE107

⁷⁷ Department for Justice. Gambling. <http://justice.ie/en/JELR/Pages/WP15000254>

⁷⁸ Inter-Departmental Working Group on Future Licensing and Regulation of Gambling. Report to Government. March 2019.

www.justice.ie/en/JELR/Inter-

[Departmental Working Group on Future Licensing and Regulation of Gambling.pdf/Files/Inter-Departmental Working Group on Future Licensing and Regulation of Gambling.pdf](#)

⁷⁹ Ibid.

looks at those issues that are not contained within the Bill (as introduced) but which may feature in the second phase of gambling reform in Northern Ireland.

In 2013 the then Minister for Social Development, Nelson McCausland MLA, announced in a Departmental News Release⁸⁰ that gambling law in Northern Ireland would be amended to include a “section dealing with the protection of children and young people”. The Gambling Act 2005 also dedicates a whole section to children and young people and has a licensing objective specifically relating to the protection of children from harm and exploitation. In the light of this:

- Will the second phase of reform for Northern Ireland contain further proposals in respect of children and young people, if so, what will these be? Will they be outlined in a separate section of the legislation dedicated to children and young people?
- What are the arguments for and against the inclusion of a licensing objective specifically on children and vulnerable persons?
- Has there been any discussions with GB Ministers to discuss the issue of the regulation of advertising and social media in respect of under 18s exposure to gambling advertising and the impact on gambling related harm?
- A Gambling with Lives pilot initiative for schools in Northern Ireland has just been launched (September 2021)⁸¹ what action will be taken to ensure that there is a continued age-appropriate focus on gambling-related harm within the NI Curriculum?
- Research published by the Gambling Commission demonstrates the vulnerability of some post-18 years olds (i.e. those aged 18 to 30) to gambling related harm. For example, the research found that young people were most vulnerable to experiencing gambling harm after achieving independence from their parents⁸². What support is currently available to young people in this age group in terms of preventing and treating gambling related harm? What support is currently available through universities and apprenticeship programmes and what further types of support are needed?
- Clause 7 of the Bill (as introduced) provides a defence for a person charged with an offence in relation to inviting, causing or permitting a person under the age of 18 to play anything other than a lower limit gaming machine (e.g. if the person can prove that there was good reason to believe that that person had attained

⁸⁰ Department for Social Development. News Release. ‘McCausland announced plans to update gambling laws’. 10 January 2013. <https://wayback.archive-it.org/11112/20150609124403/http://www.northernireland.gov.uk/index/media-centre/news-departments/news-dsd/news-releases-dsd-january-2013/news-dsd-100113-mccausland-announces-plans.htm>

⁸¹ Gambling with Lives. ‘GWL launches pioneering gambling education programme’. 13 September 2021. www.gamblingwithlives.org/event

⁸² Gambling Commission. News Release. ‘Gambling Commission publishes new research which explores the gambling journeys and behaviours of young people’. 5 August 2021. www.gamblingcommission.gov.uk/news/article/gambling-commission-publishes-new-research-which-explores-the-gambling

that age). For the purposes of aiding an understanding of this clause could illustrative examples be provided as the type of proof required to demonstrate good reason to believe that the person was 18 years of age and over.

- How will this new provision be monitored? Are there currently test-purchasing exercises in relation to licensed betting, gaming, lotteries and amusements premises in Northern Ireland? If not, why not?

Clause 8: Arrangements not requiring persons to pay to participate and Clause 11: Prize competitions not requiring persons to pay to participate

The Department for Communities [2019 consultation](#) highlights that the current 1985 Order does not permit any commercially organised prize competitions that involve forecasting the result of an event or in which success does not depend to a substantial degree on the exercise of skill. Many businesses use competitions as a sales promotion activity or marketing device. The consultation paper highlights that a commercial prize competition or draw which does not meet the “skill” requirement may still be lawful as long as there is a free method of entry. However, it also states that a promotional prize draw that depends on a person buying a particular product or being a member (e.g. having a bank account with a bank providing a promotion prize draw) are not considered free draws under the 1985 Order and are therefore unlawful in Northern Ireland. The Advertising Standards Authority current advises that those organising promotions obtain legal advice if running prize promotions in Northern Ireland to determine how to run it legally in adherence with the 1985 Order⁸³.

[Article 131](#) of the 1985 Order currently states that all lotteries that do not constitute gaming are unlawful (with the exception e.g. of the National Lottery). **Clause 8** introduces a new paragraph to [Article 131](#) of the Order **specifying that a prize competition arrangement is not a lottery unless persons are required to pay to participate**. According to the Explanatory and Financial Memorandum Clause 8 will therefore remove free to enter prize arrangements from the definition of a lottery.

Currently [Article 186](#) of the 1985 Order provides that it is largely unlawful to conduct in or through any newspaper, or in connection with any trade or business, any competition in which prizes are offered for forecasting the results of either (a) a future event or (b) a past event the results of which are not yet ascertained or generally known. It is also currently unlawful under Article 186 to conduct any other competition in which success does not depend to a substantial degree on the exercise of skill. **Clause 11** proposes to amend [Article 168](#) of the 1985 Order (which covers prize competitions) by introducing a new paragraph (2A) which specifies that a prize

⁸³ Advertising Standards Authority (ASA). Promotional marketing: free entry routes. December 2020. www.asa.org.uk/advice-online/promotional-marketing-free-entry-routes.html

competition arrangement is not prohibited by Article 168 unless persons are required to pay to participate in the arrangement.

Clauses 8 and 11 will refer to a new schedule which will be added to the 1985 Order. The **new schedule (15A)** is entitled (Lotteries and Competitions: Requirements to Pay in Order to Participate). It sets out what does and does not constitute a requirement to pay to participate. For example, a reference to paying includes a reference to (a) paying money, (b) transferring money's worth, and (b) paying for goods or services at a price or rate which reflects the opportunity to participate in an arrangement.

A reference to paying does not include a reference to incurring expenses, at a normal rate, of (a) sending a letter by ordinary post, (b) making a telephone call, or (c) any other method of communication. A "normal rate" is defined in the schedule as "a rate which does not reflect the opportunity to enter a lottery". A requirement to pay in order to discover whether a prize has been won or to claim possession of a prize is to be treated as a requirement to pay in order to participate in competition. The schedule provides that regulations may be made to provide that an activity of a specified kind or performed in specified circumstances is to be or not to be treated as paying to participate in an arrangement.

- How does the Department intend to monitor this activity in terms of both positive and negative impacts?
- What action will be taken to prevent the availability of prize competitions that are not permitted under the amended 1985 Order?

Clause 9: Rules for societies' lotteries

Lotteries in Northern Ireland are illegal unless they are specifically permitted by the 1985 Order. Under the 1985 Order all lotteries are unlawful unless they are⁸⁴:

- small lotteries ancillary to an exempt entertainment (e.g. a charitable bazaar, sale of work, fete, dinner, dance, or at a sporting event);
- private lotteries (e.g., traditional sweepstakes in workplaces and small-scale funding raising ballots by societies);
- societies' lotteries; or
- are part of the National Lottery.

Those wishing to raise funds via societies' lotteries must apply to register with their local council. The Department for Communities has published a leaflet explaining the law on lotteries in Northern Ireland which is available to download [here](#). It states that a societies' lottery is one in which tickets or chances (to win a prize) may be sold to the

⁸⁴ Information extracted from Department for Communities. Regulation of Gambling in Northern Ireland. Consultation Document. December 2019. www.communities-ni.gov.uk/sites/default/files/consultations/communities/dfc-consultation-regulation-gambling.pdf

general public. The 1985 Order defines a “society” as any club, institution, organisation or association of persons or any separate branch or section of such a club, institution or organisation. A societies’ lottery means a lottery promoted on behalf of a society established and conducted wholly or mainly for one of the following purposes:⁸⁵

- charitable purposes;
- participation in, or support of, athletic sports or games or cultural activities; or
- other purposes which are not purposes of private gain or of any commercial undertaking.

The 1985 Order currently places a number of monetary limits on stakes and prizes for societies’ lotteries. The Department’s 2019 consultation paper outlines these as follows:

- the maximum price of a ticket or charge to participate in societies’ lotteries is £1 and no prize may exceed £25,000 (in amount or value) or 10% of the proceeds, whichever is greater.
- no more than 50% of the proceeds of a lottery may be used to provide prizes;
- the total value of tickets or chances sold in any one lottery must not exceed £80,000; and
- the total value of tickets or chances sold in all the lotteries promoted by one society in any year must not exceed £1 million.

The consultation paper notes that many charities feel that these rules are too restrictive and that the £1 maximum price per ticket and the £80,000 limit that can be raised from ticket sales in any one lottery is said to be hampering fund raising efforts.

Therefore, clause 9 of the Bill (as introduced) will repeal paragraph 5 of [Article 137](#) of the 1985 Order which establishes the £1 ticket price limit for societies lotteries. Clause 9 also alters the limit currently set under paragraph 14 of Article 137 on the amount which may be appropriated for the expenses of a society lottery to 20% of the whole proceeds. Currently Article 137 (14) states the amount of 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) the amounts specified in paragraph 15. Paragraph 15 currently states that where the whole proceeds of the lottery do not exceed £10,000, 20% of those proceeds may be appropriated and where the whole proceeds of the lottery exceeds £10,000, then 15% of those proceeds may be appropriated. Paragraph 15 will be repealed by Clause 9.

Commenting on this aspect of the Bill, during the Second Stage, the Minister for Communities stated that she wanted⁸⁶:

⁸⁵ Department for Communities. The law on lotteries in Northern Ireland. September 2021. <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/leaflet-on-lottery-law.pdf>

⁸⁶ Northern Ireland Assembly Official Report. Second Stage: Betting, Gaming, Lotteries and Amusements (Amendment) Bill. 27 September 2021. <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/27&docID=350780#3626642>

“...Members to acknowledge a second small but equally important dimension to the Bill. It relates to the efforts of local charities, sports clubs and other voluntary groups to raise money for good causes in order to advance the health, happiness and sustainability of our community in matters that are close to their hearts. Those organisations are the backbone of our community. In my view, it would be wrong to allow today's opportunity to pass by without revisiting at least some of the rules applying to society lottery money-raising activities. We must be prepared to look at how the rules might be adjusted in a way that helps to increase donations and revenue-raising opportunities for voluntary schemes and charitable work.”

What is the position in other jurisdictions?

Lotteries (or raffles) for good causes run by non-commercial societies are permitted in Great Britain under the Gambling Act 2015. A society is non-commercial if it is established and conducted for either (a) charitable purposes (b) enabling participation in, or supporting, sport, athletics, or a cultural activity, and (c) any other non-commercial purpose other than private gain.

According to information provided on the Gambling Commission website there are two types of societies' lotteries, i.e. large society lotteries and small society lotteries and there are different rules depending on the categories⁸⁷:

Large society lotteries	Small society lotteries
<ul style="list-style-type: none"> • Has proceeds that exceed £20,000 for a single draw. • Has aggregate proceeds from lotteries in excess of £250,000 in any one year. • Requires a licence from the Gambling Commission. 	<ul style="list-style-type: none"> • Does not have proceeds that exceed £20,000 for a single draw. • Do not have aggregate proceeds from lotteries in excess of £250,000 in any one year. • Does not require a licence from the Gambling Commission. • Must be registered with the local authority in the area where the principle office of the society is located.

Society lotteries that require licensing from the Gambling Commission must comply with the specific licensing conditions and codes of practice relevant to them. The Gambling Act 2005 also contains provisions to regulate the activities of External Lottery Managers (ELMs), i.e. individuals or organisations licensed by the Gambling Commission to administer lotteries on behalf of a society. Further information on the

⁸⁷ Gambling Commission. Society lotteries, www.gamblingcommission.gov.uk/licensees-and-businesses/page/society-lotteries

regulation of ELMs is available [here](#)⁸⁸. Social responsibility codes are attached to all lottery operating licences including a requirement to take account of the Gambling Commission's guidance on providing information to lottery players about how proceeds are used and the likelihood of winning a prize and how those prizes are allocated⁸⁹.

Proceeds and monetary limits in GB

There is no maximum price of a societies' lottery ticket in GB. A societies' lottery must apply a minimum of 20% of gross proceeds of each lottery directly to the purpose of the society. Up to a maximum of 80% of the gross proceeds of each lottery may be divided between prizes and the expenses of the lottery⁹⁰.

For large societies' lotteries, the maximum value of tickets than can be sold is £5m and the maximum aggregate value of lottery tickets that can be sold in any one year is £50m. The maximum prize in a single lottery is £25,000 or 10% of the proceeds (ticket sales), whichever is greater. Therefore, a large societies' lottery that sells the maximum number of tickets in a single lottery of £5m could award a maximum top prize of £500,000. For small societies' lotteries, the maximum prize is £25,000.

Does the Department intent to review the impact of a change in the law in relation to societies' lotteries? If so, how soon after the Act becoming law will this review be carried out?

Does the Department intend to collate data on the amount raised annually through societies' lotteries?

Will there be a code of practice for societies' lotteries? If so, will this include a social responsibility element to ensure that children and those who are vulnerable are protected from gambling related harm?

Do societies in Northern Ireland use the services of External Lottery Managers (ELMs) or is there potential that some may opt to use ELMs? If so, is there sufficient regulation of ELMs or third parties offering similar services in the 1985 Order?

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

The 1985 Order currently provides that:

- **21 years of age is the lower age limit** for holders of a bookmaker's licence, bingo club licence, gaming machine certificate or permit, or lottery certificate. In the case of companies, the 21 years of age limit also applies to directors;

⁸⁸ Gambling Commission. Promoting society and local authority lotteries. <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/promoting-society-and-local-authority-lotteries>

⁸⁹ Gambling Commission. Promoting society and local authority lotteries. www.gamblingcommission.gov.uk/licensees-and-businesses/guide/promoting-society-and-local-authority-lotteries

⁹⁰ Gambling Commission. Society lotteries, www.gamblingcommission.gov.uk/licensees-and-businesses/page/society-lotteries

- An applicant for a bookmaker’s licence, bingo club licence, gaming machine certificate or permit must be “**ordinarily resident**” in Northern Ireland for at least 12 months prior to the date of application; and
- Companies must be **incorporated under Northern Ireland companies’ law**.

Clause 10 proposes to amend the minimum age restriction from 21 years old to 18 years old. It will also repeal the requirement that an applicant must be “ordinarily resident” in Northern Ireland. It will also substitute the current requirement for a company to be “registered under the Companies Act 2006” with a requirement that it is “a body corporate”. Clause 10 also proposed to amend the 1985 Order to permit a body corporate to be granted an amusement permit or a pleasure permit.

What is the position in other jurisdictions?

The licensing system in Great Britain is different to Northern Ireland. Depending on the type of premises a facility may need an operating licence, personal management licence and personal functional licence from the Gambling Commission. They may also require a premises licence from the local licensing authority in which the premises is to be based. The age limit for these types of licences is 18 years old (the Gambling Act 2005 states that an application for various licences may not be made by a child or young person, defined in the Act as those under the age of 18). Likewise, applicants for permits, e.g. a Family Entertainment Centre Gaming Machine Permit must be an adult (i.e. 18 years of age or over). Further information on licences and permits is available on the Gambling Commission website [here](#).

There also does not appear to be any “ordinarily resident” requirements for applicants within the 2005 Act. The 2005 Act does not make any specified references to companies as “body corporates” or bodies incorporated under companies’ law.

How will the impact of this change to the 1985 Order be monitored/reviewed?

What is the rationale for substituting the current requirement for a company to be “registered under the Companies Act 2006” with “a body corporate”? Will this have any impact on how the activities of the company can be monitored and regulated?

Clause 12: Cheating

Article 169 of the 1985 Order provides the following definition of cheating:

“Every person who by fraud or cheat in organising or managing or assisting in organising or managing or providing facilities for any game or in acting as banker for those who play or in playing at, or in wagering on the event of, any game, sport, pastime or exercise wins from any other person or causes or procures any person to win from another any property shall be guilty of an offence”.

The Department for Communities [2019 consultation](#) highlighted that the offence relating to cheating currently **only applies when someone actually wins through cheating** and a **person who cheats and does not win money** from another person is not deemed to be guilty of an offence.

Clause 12 proposes to replace the existing offence in Article 169 of the 1985 Order with a new Article which states that a person who (a) cheats at gambling, or (b) does anything for the purposes of enabling or assisting another person to cheat, is guilty of an offence. For these purposes the new Article 169 will state that it is immaterial whether a person who cheats (a) improves his chances of winning anything, or (b) wins anything. It further states that cheating at gambling may also consist of actual or attempted deception or interference in connection with (a) the process by which gambling is conducted or (b) a game, sport, pastime or other event or process to which gambling relates. Gambling is defined in the Article as meaning gaming, betting or participating in a lottery.

This will bring the definition of cheating into line with that contained in [Section 42](#) of the Gambling Act 2005 which applies to Great Britain. However, the definition of cheating within Section 42 includes reference to a “real or *virtual* game, race, or other event or process to which gambling relates”. Clause 12 (as introduced) does not contain the word “virtual”.

The new definition of cheating as set out in Clause 12 is very similar to the definition of cheating in Article 42 of the Gambling Act 2005. However, the 2005 Act states that “cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with – (a) a real or virtual game, race or other event or process to which gambling relates”. The word “virtual” does not appear in the Clause 12. What is the reason for its omission?

Clause 13: Enforceability of gambling contracts

The Department for Communities [2019 consultation](#) states that 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. In comparison, [Part 17](#) of the Gambling Act 2005, which applies to Great Britain, is specifically dedicated to the “Legality and Enforceability of Gambling Contracts”. The Department, in its briefing to the Committee for Communities, highlighted that at the moment, Articles 170 and 171 of the 1985 Order effectively prevent gambling contracts from being legally enforced⁹¹.

According to the Bill’s [Explanatory and Financial Memorandum](#) (EFM), Clause 13 will provide for contracts relating to gambling to be legally enforced without prejudice to any law that prohibits the enforcement of contracts on unlawfulness grounds. Clause 13 (4) clarifies that the repeal of Articles 170 and 171 under Clause 13(1) does not allow the

⁹¹ Northern Ireland Assembly. Official Report. Departmental briefing to the Committee for Communities on the Betting, Gaming, Lotteries and Amusements (Amendment) Bill. <http://data.niassembly.gov.uk/HansardXml/committee-28303.pdf>

enforcement of contractual rights arising from agreements made before Clause 13 comes into operation.

The 2005 Gambling Act also contains provision in relation to the enforceability of gambling contracts under [section 335](#). However, [section 336](#) also provides the Gambling Commission with the power to void certain bets if the Commission is satisfied that the bet was “substantially unfair”. The section 336 also provides further information of factors the Commission should take into account in considering whether a bet is fair.

Section 336 of the Gambling Act 2005 provides the Gambling Commission with a power to void a bet if it is satisfied that the bet is “substantially unfair”. Are there similar protections within the 1985 Order?

Clause 14: Industry levy

Clause 14 provides that the Department for Communities may make regulations for, or in connection with, requiring every person who intends to make an application to pay a levy to the Department (i.e. an industry levy). An “application” refers to an application for:

- the grant or renewal of a bookmaker’s licence;
- the grant or renewal of a bookmaking office licence or to have the provisional grant of a bookmaking office licence declared final;
- the grant or renewal of a bingo club licence or to have the provisional grant of a bingo club licence declared final;
- the grant or renewal of a gaming machine certificate or permit; and
- for the grant or renewal of an amusement permit to have the provisional grant of an amusement permit declared final.

Clause 14 states that the **regulations must make provision for the amount of the levy**, its payment and general administration. It may, for example, make provision for the determination of the amount of the levy according to a specified formula or “in some other way”.

The proceeds of a levy are to be expended by the Department for Communities to provide financial assistance for projects related to **(a) addiction to gambling, or (b) other forms of harm or exploitation associated with gambling**. Financial assistance may be provided by grants, loans or any other form of financial assistance. Any proposed expenditure of levy proceeds will require Department of Finance approval⁹². Before making any regulations, Clause 14 provides that the Department for

⁹² Northern Ireland Assembly. Official Report. Departmental briefing to the Committee for Communities on the Betting, Gaming, Lotteries and Amusements (Amendment) Bill. <http://data.niassembly.gov.uk/HansardXml/committee-28303.pdf>

Communities must consult with “such organisations as appear to the Department to represent the interests of the gambling industry in Northern Ireland”.

What is the position in other jurisdictions?

Great Britain

[Section 123](#) of the Gambling Act 2005 provides the Secretary of State with a power to make regulations requiring holders of an operating licence to pay an annual levy to the Gambling Commission. It also provides that the Commission shall, with the consent of the Treasury and the Secretary of State, expend money received by way of levy to provide financial assistance (e.g., grants, loans and “any other form of financial assistance”) for projects relating to (a) addiction to gambling, (b) other forms of harm or exploitation associated with gambling, or (c) any of the licensing objectives. There are three licensing objectives (as determined under Section 1 of the 2004 Act):

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The 2005 Act’s [Explanatory Notes](#) state that the powers set out in Section 123 are “reserve powers”. It also states the levy will be paid to the Commission and treated as if it were “part of the annual fee”. This means that a licence would be revocable if the levy was not paid. Unlike Clause 14 of the Bill (as introduced), section 123 of the Gambling Act 2005 lists a number of potential methods for calculating the levy:

- determining the amount of levy by reference to (a) percentage of specified receipts of an operating licence holder or (b) a percentage of specified profits of an operating licence holder or (c) a percentage of the annual fee under section 100 of the Act; or
- providing the determination of the amount of a levy according to (a) a specified formula or (b) determining the amount of levy in some other way.

The powers under section 123 of the Act have not been exercised, i.e. a mandatory industry levy has not been introduced. Funding for research, prevention and treatment for gambling has been provided primarily through voluntary donations to a nominated charity, currently [GambleAware](#). A [paper](#) by the [Advisory Board for Safer Gambling](#) to the Gambling Commission explains that these contributions are distributed to a wide range of third sector, academic institutes and NHS providers. The target amount to be raised each year in voluntary donations is £10 million, the paper highlights that this represents just 0.1% of Gross Gambling Yield (GGY). The Advisory Board for Safer Gambling is an independent, expert advisory board that provides advice to the Gambling Commission.

The Advisory Board for Safer Gambling paper further states that “*despite efforts by the Gambling Commission and other stakeholders to improve the current voluntary system, it remains not fit for purpose*”. It lists its weaknesses as a lack of transparency, a lack of equity across operators, that there is a record of insufficient funding; and that voluntary funding is unpredictable. It recommends a statutory levy, set at one percent of Gross Gambling Yield (GGY) replaces the voluntary scheme⁹³. The Gambling Commission, in its [Strategy 2018-21: Making Gambling Fairer and Safer](#) states that it has historically called for industry to increase funding to prevent gambling-related harm and support education and treatment but that the response overall by operators has been “*slow and insufficient*”. It states that a “*...levy, for which the government has powers, would be a fair and credible way of addressing some of the weaknesses should they continue*”⁹⁴.

The Terms of Reference and Call for Evidence policy paper on the [review of the Gambling Act 2005](#), stated that the “*government has always been clear that should the industry’s voluntary system for supporting projects and services related to problem gambling fail to deliver the level of funding necessary, it would look at the case for alternative funding mechanisms and all options would be considered including a levy*”.

Mandatory gambling industry levy in other countries – some examples

In **New Zealand**, the [Ministry of Health](#) is responsible for the prevention and treatment of problem gambling, including the funding and co-ordination of problem gambling services. Problem gambling services are funded through a levy on gambling operators known as the ‘Problem Gambling Levy’. The levy is collected from the profits of New Zealand’s four main gambling operators, i.e. gaming machines in pubs and clubs; casinos, the New Zealand Racing Board; and the New Zealand Lotteries Commission (i.e. land based rather than online operators). The **formula for calculating the levy rate** for each of the four sectors is set out in [section 320](#) of the Gambling Act 2003 and the levy is reviewed every three years. Further detailed information on the levy and the total annual amount derived from the levy is available from the report on the proposed Problem Gambling Levy 2019-2020 which is available to download [here](#)⁹⁵.

New South Wales (Australia) has a [Responsible Gambling Fund \(RGF\)](#) as well as an [Office for Responsible Gambling](#) which leads on the development of responsible gambling strategy and public policy advice to the New South Wales Government. It also manages the Responsible Gambling Fund, the fund receives an income from a levy on each casino licence in NSW, with contributions currently set at 2% of gaming revenue. Money may also be paid into the Fund as a “community benefit payment” or a gaming machine lease levy under the Gaming Machines Act. The Fund is administered by trustees who make recommendations to government on the

⁹³ Advisory Board for Safer Gambling. Advice to the Gambling Commission on a statutory levy. 1 September 2020. www.gamblingcommission.gov.uk/print/advice-to-the-gambling-commission-on-a-statutory-levy

⁹⁴ Gambling Commission. Strategy 2018-2021. Making Gambling Fairer and Safer.

⁹⁵ Gambling Commission. www.gamblingcommission.govt.nz/GCwebsite.nsf/wpg_URL/Reports-Publications-Problem-Gambling-Levy-2019-2022!OpenDocument

appropriate allocation of money for responsible gambling purposes. Further information on the Fund, the annual amount received via the levy and the types of projects funded is available from the Fund's annual reports, available to download [here](#).

- For the purposes of clarity, will the levy only be applicable to land-based licences, certificates and permits in Northern Ireland?
- Have there been any discussions or correspondence with UK Government Ministers or the Gambling Commission on a mandatory levy which will include online gambling operators?
- How will the levy be calculated? Has the Department conducted an information gathering exercise of mandatory levy models in other jurisdictions? If so, is there a particular model or formula that it is minded to use? Has it conducted, or does it intend to conduct, modelling exercises to estimate the amount of money that could be derived from a levy?
- Is there a tentative date for when the regulations will be made and when the levy will become operational?
- Will there be transitional arrangements for licence, certificate, and permit holders to enable them to put internal processes in place to pay the new levy?
- In some jurisdictions with a mandatory levy (such as New South Wales), there is an independent board of trustees or board to advise government on the distribution of funds. Is there a need for a similar arrangement in Northern Ireland, if not, why not?
- Some jurisdictions with a mandatory levy will publish at least annual reports on the levy, how it is calculated, and how the money has been spent. In the interests of transparency will a similar document be published should a mandatory levy become operational in Northern Ireland?

Clause 15: Code of practice

[Section 24](#) of the Gambling Act 2005 (which applies in Great Britain) permits the Gambling Commission to issue one or more codes of practice about the manner in which facilities for gambling are provided. The Gambling Commission has opted to consolidate all the gambling codes into one document known as the [Licence Conditions and Codes of Practice \(LCCP\)](#)⁹⁶. The LCCP establishes rules in respect of:

⁹⁶ Gambling Commission. Licensing Conditions and Codes of Practice (LCCP). www.gamblingcommission.gov.uk/licensees-and-businesses/lccp

- Different types of licences (e.g. operating licence, personal management licence etc.);
- Technical standards, equipment specifications, remote gambling equipment and software (although more detailed information on these issues is available separately on the Gambling Commission website);
- The protection of customer funds;
- Acceptable payment methods, the provision of credit by licensees, and the use of credit cards;
- ‘Fair and open’ and transparent terms and practices;
- The prevention of money laundering and terrorist financing;
- The reporting of suspicious offences and other reportable offences;
- Regulatory returns (i.e. information that must be provided to the Gambling Commission);
- Customer identify verification;
- Protection of children and other vulnerable persons including combating problem gambling;
- The employment of children and young people in gambling facilities;
- Self-exclusion (both remote and non-remote);
- Marketing, incentives and reward schemes;
- Compliance with advertising codes;
- Complaints and disputes; and
- “Assessing local risk” whereby all non-remote gambling operators should assess the *“local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks”*.

The LCCP also contains sector specific sections (e.g. for betting, gaming machines, casinos, bingo etc.). The licensing conditions parts of the LCCP are mandatory. Additionally, two different codes are used throughout the LCCP, i.e. an ‘Ordinary Code’ and a ‘Social Responsibility Code’. The Ordinary Code sets out good practice but is not a condition of an operator’s licence. However, compliance with the Responsibility Code’ is a condition of licences and any breach by an operator may lead to the Commission reviewing the operator’s licence with a view to suspension, revocation or the imposition of a financial penalty. According to the LCCP, breaches could also expose the operator to risk of prosecution. The LCCP indicates whether the provisions of the LCCP fall into either the Ordinary Code (i.e. good practice) or are conditions of the licence (i.e. the Responsibility Code).

The recent House of Lords report ‘[Gambling Harm – Time for Action](#)’ maintains that *“...none of the LCCP would be of any effect if the Commission did not enforce both the licensing conditions and the social responsibility provisions of codes of practice”*. The report argues that until relatively recently the *“use made by the Commission of its*

powers to fine operators in breach of the LCCP was totally inadequate". However, the report states that in more recent years the Commission has been more proactive in the use of its powers and has started to issue [annual reports](#) on its enforcement powers which has had a *"dual purpose of encouraging operators to comply with the rules and explaining what happens when they fail to do so"*. However, the Committee was still critical of the level of fines imposed and penalties agreed by the Gambling Commission, arguing that they should reflect not just the seriousness of the offence but the size of the offender⁹⁷.

The Committee noted that the Gambling Commission had made three significant changes to the LCCP in recent months including (a) limiting the number of organisations to which an operator can pay their voluntary levy, (b) banning the use of credit cards for gambling, and (c) making membership of GAMSTOP compulsory. It stated that there were highly desirable changes which the Committee fully endorsed⁹⁸.

Code(s) of practice for Northern Ireland – the provisions of Clause 15

Northern Ireland does not currently have an equivalent to the LCCP nor equivalent detailed separate codes of practice for each different type of gambling premises or gambling activity. Some local operators may, however, adhere to their own industry codes of practice. **Clause 15** of the Bill (as introduced) will insert a new Article (Article 180A) into the 1985 Order to provide that the **Department must issues on or more codes of practice** "about the manner in which facilities for gambling are provided.

New Article 180A also provides that the code *must* describe arrangements that should be made by a person providing facilities for gambling for the purposes of:

- ensuring that gambling is conducted in a fair and open way;
- protecting persons under the age of 18 and other vulnerable persons from being harmed or exploited by gambling; and
- making assistance available to persons who are or may be affected by problems relating to gambling.

New Article 180A also provide that a code *may* include provisions about how facilities for gambling are advertised or described. A failure to comply with a provision of a code "does not of itself make a person liable to criminal or civil proceedings". However, new Article 180A states that it:

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

⁹⁷ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry. Gambling Harm – Time for Action. Report of Session 2009-2021. July 2020. <https://publications.parliament.uk/pa/ld5801/ldselect/ldgamb/79/79.pdf>

⁹⁸ Ibid.

Before issuing or revising a Code, new Article 180A, provides that the Department must consult with “such organisations as appear to the Department” to represent the interests of the local gambling industry, those who have knowledge of the social problems related to gambling, district councils, the Chief Constable, and the public. If a code contains provisions about how facilities for gambling are advertised, then the Department may also consult with persons who appear to the Department to have a relevant responsibility for regulating the advertising industry.

- What are the arguments for and against statutory codes of practice?
- What types of code are the Department minded to issue? Will it be a large code similar to the LCCP or a series of smaller codes?
- Will there be a ‘social responsibility’ element to the code?
- Will an annual report providing information on breaches of the code and enforcement action be published?

5 What issues are *not* included in the Bill (as introduced)?

During the [Second Stage](#) of the Bill a number of Members expressed a view that the Bill in its current form did not go far enough. Some express support for greater regulation of advertising and sponsorship; enhanced regulation of online gambling; a ban on the use of credit cards for gambling; greater protections for vulnerable and problem gamblers; greater regulation in terms of age verification and self-exclusion; regulation of Fixed Odds Betting Terminals (FOBTs); and a more preventative approach to gambling related harm including greater emphasis on education for children and young people.

However, the Minister for Communities, during the Second Stage of the Bill, outlined her rationale for taking a two-phased approach to gambling reform in Northern Ireland⁹⁹:

“The Bill cannot tackle gambling in its entirety. That is why I have decided to break it up. I want to see some changes, which will include protections, in this mandate. The Bill will be the biggest piece of legislation to go through the Assembly and there will be almost 340 amendments to it. It will be a huge piece of legislation and, with all the will in the world, it cannot be dealt with in this mandate....I am laying the foundations for that work to be taken up in the next Assembly mandate.”

⁹⁹ Northern Ireland Assembly Official Report. Second Stage of the Betting, Gaming, Lotteries and Amusements (Amendment) Bill. 27 September 2021.

<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/27&docID=350780#3626642>

...I recognise that many people are impatient to see a more radical reform of gambling laws. There will be those, who believe that I should take a far more stringent line of the gambling industry in general. I completely understand those concerns. However, I believe the Bill offers a balance between what needs to be done now and what is realistic in the remaining time of the Assembly”.

Some of the issues raised during Second Stage such as advertising are largely not devolved issues and will require action to be taken at Westminster. In this respect any legislative or policy changes arising from the UK Government's [review of the Gambling Act 2005](#) will be critical to the regulation of various forms of gambling in Northern Ireland including online gambling. The review is looking at issues such as¹⁰⁰:

- the effectiveness of current player protection obligations;
- whether there should be greater control of online product design;
- the benefits and harms caused by allowing licensed gamblers to advertise;
- the harms or benefits of permitted promotional offers (e.g., free spins, bonuses, hospitality, VIP schemes);
- the positive and negative impact of gambling sponsorship arrangements across sports and other areas;
- The Gambling Commission's current powers and funding arrangements;
- The effectiveness of the current consumer redress mechanisms and whether there is a case to change these arrangements; and
- The effectiveness of current measures to prevent illegal underage gambling in land-based venues and online.

Potential outstanding issues

Provided in this section of the paper is a brief overview of a range of issues consulted upon as part of the Department for Communities 2019 consultation paper but which are *not included in the Bill* (as introduced). The consultation paper is available to download [here](#) and the consultation survey report is available to download [here](#). This is not an exhaustive list of potential outstanding issues; the Committee for Communities Call for Evidence on the Bill and subsequent oral evidence sessions may reveal further issues.

A Gambling Regulator for Northern Ireland?

The Department for Communities [2019 consultation](#) paper on the reform of gambling highlighted that currently the PSNI is responsible for enforcement of the 1985 Order. The paper stated that in the past there had been an expressed view that enforcement

¹⁰⁰ Department for Digital, Culture, Media & Sport. Review of the Gambling Act 2005. Terms of Reference and Call for Evidence. 8 December 2020. www.gov.uk/government/publications/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence

of gambling law is a social and revenue matter and that some may wish to see transfer to another agency. The consultation sought views on whether the PSNI is the most appropriate agency to enforce the law.

The consultation also sought views on the future regulatory framework for Northern Ireland. As the Department did not have a Minister in place at the time of the publication of the consultation it set out four potential scenarios without taking a policy position on the issue. That is,

- **Continue the current position (no regulatory body)** – the consultation paper states that successive Northern Ireland administrations have taken the view that since large-scale commercial gaming is not permitted here, the necessary scrutiny and regulatory functions can be discharged satisfactorily by existing agencies.
- **Establish an independent body** – the consultation paper states that in recent years there has been a move toward independent regulation of licensing and enforcement activities across most European states and beyond, an example of this is the Gambling Commission in Great Britain.
- **A government regulator** – establish a new gambling regulator’s office within a government department to undertake particular regulatory functions.
- **An existing regulatory body** – the consultation paper states that another potential option would be to seek the support of another regulator to carry out the regulatory functions required in Northern Ireland. It goes on to state that such a body would need to have experience in either the regulation of gambling or a related subject, one such example might be the Gambling Commission.

The Minister for Communities, during the [Second Stage](#) of the Bill, stated that she had “...previously expressed support for the establishment of an independent gambling regulator to monitor, in the public interest, the activities of the industry and with appropriate powers to deal with malpractice and exploitation, wherever they occur.”

The [Gambling Commission](#) regulates the gambling industry in Great Britain and was established under [Part 2](#) the Gambling Act 2005. Further information on the activities and powers of the Commission can be found [here](#)¹⁰¹. However, the House of Lords Select Committee Report provides a helpful synopsis of its powers and functions (see Table below). It is likely that an independent regulator would require similar powers:

The Gambling Commission’s statutory functions under the Gambling Act 2005

The Commission’s functions in relation to licensing and regulation under the 2005 Act can be categorised as licensing, compliance, regulatory enforcement, and criminal enforcement.

In particular, the Commission has the power to:

¹⁰¹ Gambling Commission. What we do. www.gamblingcommission.gov.uk/about-us

- Determine applications for operating and personal licences, specify the conditions to be attached to such licences (both general and individual) limit the duration of such licences, and determine applications to vary or renew operating licences and personal licences;
- Assess compliance with the Act, with any licence condition, code of practice, or other provision made by or by virtue of the Act;
- Assess whether an offence contrary to the Act has been committed (including the power to request information from operating and personal licence holders);
- Commence licence reviews and carry out inspections;
- Take regulatory action against an operating or personal licence holder following a review (including the power to issue a formal warning, to attach, remove, or amend a licence condition, to suspend or revoke a licence, and to impose a financial penalty for breach of a licence condition), and to void a bet and require repayment of any money paid in relation to it; and
- Invest and prosecute offences committed under the Act (the Commission has no power to prosecute offences in Scotland as that power rests with the Crown Office and Procurator Fiscal Service, to whom the Commission can refer results of an investigation)

Information extracted directly from House of Commons Select Committee on the Social and Economic Impact of the Gambling Industry. [‘Gambling Harm – Time for Action’](#). July 2020.

The powers and activities of the Gambling Commission have come under increasing scrutiny in recent years. The House of Lords Select Committee report [‘Gambling Harm – Time for Action’](#) published in July 2020, has made a number of recommendations for change, including for example,:

- that the government should work with the Gambling Commission to devise a new funding structure in order to provide it with more flexibility and allow it to react and adapt to the fast-changing regulatory requirements;
- that the Gambling Act 2015 should be amended to provide that the Commission should not permit gambling unless it believes that to do so will be consistent with the licensing objectives. It also recommended that a new objective should be added to the aims of the Commission, i.e. the identification and prevention of potential and actual harm;
- that fines currently imposed and penalties agreed by the Gambling Commission do not make a sufficient impact on large corporations and that fines and penalties should not just reflect the seriousness of the offence but the size of the offender;
- in the case of repeat offences or other extreme circumstances the Commission should demonstrate much greater willingness to exercise its power to withdraw an operator’s licence; and
- the Government should conduct a triennial review of the work of the Gambling Commission, taking evidence from a wide range of interested persons and bodies and prepare a report to Parliament including any changes which may be needed to the Commission’s constitution or to the law governing it.

The UK Government's [review of the Gambling Act 2005](#) is also examining the Gambling Commission's powers and resources and its call for evidence has sought views on, for example, whether the Gambling Commission has sufficient investigation, enforcement and sanction powers to effect change in operator behaviour and raise standards. It is also seeking information on whether there is evidence from other jurisdictions or regulators on the most effective system for recouping the regulatory and societal costs of gambling from operators, for instance through taxes, licence fees or statutory levies.

The Irish Government has also made a commitment to establish an independent gambling regulator. The Minister for State at the Department of Justice has recently [indicated](#) that work on the General Scheme of the Gambling Regulation Bill is at an "advanced stage" and that there is a "clear path towards the regulator being established in early 2023". The Minister further highlighted that the regulator will have the necessary enforcement powers for licensing, and powers to take action where individuals or operators are failing to follow rules and regulations. Furthermore, operators offering activities wholly or partly online will be subject to licensing terms and conditions as set out by the regulator. Further details on the functions and powers of the regulator will be outlined in the Scheme¹⁰².

Other countries that have gambling regulators include:

France - has the [ANJ](#) which is an independent authority that reports to Parliament. It regulates licensed gambling and betting games (online, at points of sales and at racecourses) and oversees the responsible gambling policy of casinos.

Spain – has the [Directorate General for the Regulation of Gambling](#), a body under the Ministry of Finance that monitors and supervises gambling activities in Spain.

Malta – has the [Malta Gaming Authority](#) which is responsible for granting gambling licences, monitoring licensed gaming, collecting gaming tax on behalf of Government, and ensuring that the sector contributes to the country's development.

Australia – has the [ACT Gambling and Racing Commission](#), an independent body established under the Gambling and Racing Control Act 1999. Its functions include the regulation of casinos, gaming machines, lotteries, racing, betting and online gambling.

Isle of Man – has the [Gambling Supervision Commission](#), an independent statutory body established in 1962. It is responsible for the licensing of land-based gambling operations and all online gambling activity.

¹⁰² Dail Eireann Debate. Question to the Minister for Justice. 30 September 2021. www.oireachtas.ie/en/debates/question/2021-09-30/305/

The protection of children and young people

The Gambling Act 2005 which applies to GB is unpinned by three specific licencing objectives, the third of which is “*protecting children and other vulnerable persons from being harmed or exploited by gambling*”. The other two objectives relate to the prevention of gambling from being a source of crime and disorder and ensuring that gambling is conducted in a fair and open way. The 1985 Order does not contain licencing objectives.

Licensed gambling operators in GB must also adhere to a ‘[Social Responsibility Code](#)’ (SR) and compliance with the code is a condition of licences¹⁰³. The Code sets out the SR obligations of licensees in respect to the:

- prevention of underage gambling;
- age verification and identification procedures;
- the removal of underage individuals from the premises if they are not permitted to be there;
- premises supervision;
- a prohibition of deliberately providing facilities for gambling in such a way as to appeal particularly to children and young people;
- staff training in understanding their responsibilities in relation to underage gambling; and
- conducting test purchasing or taking part in collective test purchase programmes to ensure that policies to prevent underage gambling are effective.

There is a specific SR Code for each type of gambling premises including casinos; Adult Gaming Centres (AGCs); bingo and Family Entertainment Centres (FECs); betting shops; lottery; remote (online) lottery; and remote (online) licence holders.

Unlike the Gambling Act 2005, the 1985 Order does not contain a specific section on the protection of children and young people. Rather the duties in relation to children and young people are dispersed throughout the 1985 Order. There is also no similar “Social Responsibility Code” that operators must adhere to as a condition of their licence, permit or certificate.

It should be noted, however, that a number of criticisms have also been made of the current regulatory regime for gambling in GB in relation to the protection of children and young people. A recent report by the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry entitled ‘[Gambling Harm – Time for Action](#)’ recommended that Ministers regulate ‘loot boxes’ and other similar games of chance within computer or other similar gaming platforms. It also recommended that there should be more action to undertake regular test purchase and visits to land-

¹⁰³ Gambling Commission. Social Responsibility Code. www.gamblingcommission.gov.uk/licensees-and-businesses/lccp/2/3

based gambling venues such as betting shops, amusement arcades and that an appropriate age testing scheme for online gambling operators should be developed.

In December 2020 the Department for Digital, Culture, Media & Sport announced a [review of the Gambling Act 2005](#); included within its Terms of Reference is a commitment to look at issues such as:

- age limits and age verification;
- the effectiveness of current measures to prevent illegal gambling;
- evidence of best practice from other jurisdictions in relation to the protection of children and young people;
- young people's participation on societies' lotteries;
- the advantages and disadvantages of allowing children to legally access category D gaming machines (e.g. crane grab machines, coin pushers, lower stakes slot machines); and
- whether there is evidence that extra protections are needed for younger adults (those aged between 18 and 25) and the type of protections that would be most effective for this group.

The outcome of the review is likely to be of interest to policy development around children, young people and gambling in Northern Ireland.

Remote (online) gambling

The 1985 Order pre-dates the development of the internet and therefore does not contain any provisions relating to the regulation of online gambling. The Department for Communities [2019 consultation](#) paper on the reform of gambling highlights that Northern Ireland consumers are offered a degree of protection via Gambling Commission regulation, i.e.:

- the [Gambling \(Licensing and Advertising\) Act 2014](#) requires remote gambling operators to obtain a licence to advertise and carry out transactions with consumers in GB (and consumers in NI are likely to be accessing similar websites);
- the 2014 Act makes it an offence to advertise remote gambling in Northern Ireland unless they have a remote operating licence and comply with the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) and social responsibility measures; and
- the Gambling Commission has an arrangement with payment processors such as Visa and Mastercard, who have agreed to voluntarily block transactions between UK consumers and unlicensed gambling operators and sites.

The Department's consultation sought views as to whether it was necessary to introduce additional, Northern Ireland specific, licensing and regulatory measures with respect to remote gambling operators. The Bill (as introduced) does not contain any provisions in relation to the regulation of online gambling. The Minister for

Communities stated, during the Second Stage of the Bill, that “...*there is much to be done to tackle the growth in digital, online gambling and gaming platforms, which now make up an ever-growing part of the industry*”¹⁰⁴.

It is important to note there has been criticism of the effectiveness of the current GB regulatory regime for online gambling. The House of Lords Select Committee report ‘Gambling Harm – Time for Action’ highlighted the rapid growth and development of online gambling in the UK and the impact that this was having on gambling-related harm. The Committee made a number of recommendations including establishing a system for the testing of all new games against a series of harm indicators. The UK Government’s review of the Gambling Act 2005 has sought views on:

- the effectiveness of existing online protections;
- arguments for and against greater controls of online product design (including stakes, speed, prize limits or pre-release testing); and
- how consumer data collected by operators could be better deployed to support the Government’s objectives.

The review also sought views on the Gambling Commission’s current powers and resources in terms of whether they were sufficient or whether there is scope to use existing powers differently or more effectively. Although gambling is a devolved issue, consumers in NI are very likely to be using the same online gambling websites and facilities as their GB counterparts. Any changes to the regulatory system in GB will be of significance to Northern Ireland.

Advertising and sponsorship

There are various restrictions to the advertising of local gambling within the 1985 Order e.g. ‘hard copy’ advertising of bookmaking offices is permitted but the advertising of offices in other forms of broadcast is prohibited. The consultation also notes that the advertising of premises in which gaming takes place is prohibited other than for specified exemptions e.g. bingo and gaming machines in arcades. The consultation sought views as to whether the current law in respect of the advertising of gambling in Northern Ireland is still appropriate and whether restrictions should be eased or further restrictions introduced.

It is important to note that control of other forms of gambling advertising is not within the remit of the devolved administrations. Media advertising is, for example, regulated by the Advertising Standards Authority (ASA) based on codes written by the Committee of Advertising Practice (CAP) and these codes apply across the UK.

There has been criticism levelled at the current controls in respect of gambling advertising on various different forms of broadcasting and on social media. The House of Lords Select Committee report ‘[Gambling Harm – Time for Action](#)’, for example, has

¹⁰⁴ NI Assembly. Official Report. 27 September 2021.
<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/27&docID=350780#3626642>

recommended that the UK Government commission independent research to establish the link between gambling advertising and gambling-related harm for both adults and children. It also recommended that gambling operators should no longer be permitted to advertise on the shirts and kits of sports teams and that there should be no gambling advertising in or near any sports group or sports venues, including sports programmes. The Committee made a number of other advertising recommendations including a ban on advertising that offers inducements for people to start or continue gambling.

The [review of the Gambling Act 2005](#) is also looking at the issue of advertising, sponsorship and branding. It sought views on the evidence of the harms or benefits of promotion offers such as free spins, bonuses, VIPs schemes. It also sought views on the positive and negative impact of gambling sponsorship arrangements across sports and other areas. Given that gambling advertising is to a large degree not devolved to Northern Ireland, any potential changes to the legislation made by the UK Government will also be significant to Northern Ireland. During the Second Stage of the Bill, the Minister for Communities acknowledged that the issue of advertising required closer scrutiny stating “...we need to look at the control of gambling advertising, both locally and cross-jurisdictionally: east-west, North/South and internationally”.

As previously highlighted, work is currently underway on the drafting of a new Gambling Bill in the Republic of Ireland and the Department for Justice website states that there is a commitment to establish a gambling regulator with powers to regulate certain forms of advertising. The report of the [Interdepartmental Working Group](#) set up to examine the future licensing and regulation of gambling in the south noted that there had been increased demands from a number of sources for restrictions to be placed on the gambling industry with regard to sponsorship, advertising and promotion. The group also noted that it was conscious that a number of sectors depended heavily on gambling related sponsorship and that Horse Racing Ireland (HRI) and Rásaíocht Con Éireann (RCÉ) (greyhound racing) had particular significant concerns.

The Working Group report made a number of recommendations regarding the powers that a regulatory authority (a gambling regulator) should have in relation to advertising, promotion and sponsorship of events. This included the power to develop policies and regulations (a “Code”) in respect of all gambling advertising, sponsorship and promotions in consultation with the relevant Departments, sporting organisations, health treatment professionals, consumer organisations etc. It also recommended that no gambling related sponsorship of events primarily involving persons under the age of 18 should be permitted. This includes the event, the team, branded clothing, location and stadium branding, and pitch side advertising hoardings¹⁰⁵.

¹⁰⁵ Inter-Departmental Working Group on Future Licensing and Regulation of Gambling. Report to Government. March 2019. www.justice.ie/en/JELR/Inter-Departmental-Working-Group-on-Future-Licensing-and-Regulation-of-Gambling.pdf/Files/Inter-Departmental-Working-Group-on-Future-Licensing-and-Regulation-of-Gambling.pdf

Consumer protection

The Department for Communities [2019 consultation](#) noted that the Gambling Commission does not resolve consumer complaints (e.g. it does not assist consumers seeking a return of their money from gambling activity). It does, however, have the power to investigate issues such as non-compliance within licensing conditions and can take regulatory action. The consultation further highlighted that consumers using online gambling facilities also protected via the Gambling Commission's [Licence Conditions and Codes of Practice](#) (LCCP) which require operators to meet certain standards when handling complaints. Dispute resolution may also be provided by an independent body such as the Independent Betting Adjudication Service. However, the consultation sought views as to whether the current online consumer protection measures available to Northern Ireland consumers were sufficient.

The UK Government's review of the Gambling Act 2005 sought views on the adequacy of the current redress mechanisms for consumers and whether there is a case for change. The review's terms of reference noted that often the primary route for individuals seeking redress for social responsibility failings on the part of operators is through the courts, which can be costly and time consuming. Changes to the redress mechanism in GB is likely to have an impact on consumers in Northern Ireland given that they are likely to be using the same gambling operators, websites and facilities as their GB counterparts.

In the Republic of Ireland, there is as yet no detailed information, on what the forthcoming Gambling Bill will contain in relation to consumer protection. However, it was an issue explored in the report of the [Interdepartmental Working Group](#) set up to examine the future licensing and regulation of gambling. The group stated that the critical element to improving consumer protection in relation to gambling was the establishment of the gambling regulatory authority (the gambling regulator). The Group felt that the regulator should have the primary responsibility and mandate to ensure consumer protection for persons who engage in gambling, whether land based or online. The Group also maintained that the development of an Alternative Dispute Resolution (ADR) mechanism should be a priority issue for the new regulator. It also recommended that the regulator have responsibility for the enforcement of relevant general consumer protection legislation in respect of gambling activities, in particular the Consumer Protection Act 2007 on unfair, misleading and aggressive commercial practices. The Group further recommended that there should be a prohibition on inducements to bet including advancing credit to a person for the purposes of betting, offers of VIP treatment, and return of lost player funds to bet again etc.

Bookmaking offices and bingo clubs – the 'demand test'

Before a court grants a new premises licence to a bookmaking office or bingo club it must be satisfied that provision in a particular area is inadequate to meet current local demand. This is known as the 'demand test'. The Department's 2019 consultation

states that there is an argument for retaining the test in order to avoid the proliferation of gambling premises in a particular area. However, it also states that it could be argued that market forces and a robust licensing framework should keep premises to manageable numbers. The consultation sought views on whether the current 'demand test' is still necessary.

Fixed Odds Betting Terminals (FOBTs)

The current definition of a gaming machine in Northern Ireland is set out in Part I of the 1985 Order (i.e. any machine that (a) is constructed or adapted for playing a game of chance by means of it; and (b) has a slot or other aperture for the insertion of money in the form of cash or tokens). The Department's consultation paper notes gaming machines offering traditional casino type games such as roulette began appearing in GB around 2003 and subsequently began also to appear in Northern Ireland. The paper notes that their introduction "*took advantage of a loophole in gambling law in both jurisdictions. It was argued that by locating the random number generator (which determined the outcome of the game) separate from the machine itself, the machine did not fall within the definition of a gaming machine.*" The consultation paper notes that this loophole was closed in GB by the Gambling Act 2005 which set out a new definition for a gaming machine and consequently machines such as Fixed Odds Betting Terminals (FOBTs) are treated as gaming machines and regulated as such.

On 1st April 2019 new regulations came into force in Great Britain which reduced the maximum stake on a single bet from £100 to £2 (with a maximum prize of £500). Further information on FOBTs regulation is available in a House of Commons Library Research Briefing which is available to download [here](#). It was reported that shortly after the £2 stake limit on FOBTs was introduced in GB a number of bookmaking businesses agreed to voluntarily reduce the stake to the same limit in Northern Ireland.

The Bill (as introduced) does not address the issue of mandatory stake limits for FOBTs. In answer to an Assembly Question in November 2015, the Minister for Communities indicated that a 2015 Court Judgment by the Supreme Court (HMRC v Rank Group PLC) confirmed that FOBTs were covered by the definition of gaming machine as set out in Article 2 of the 1985 Order. During the Second Stage of the Bill, the Minister for Communities stated that¹⁰⁶,

"Issues were raised about fixed-odds betting terminals. I am clear, from legal advice, that fixed-odds betting terminals already fall within the existing framework of the 1985 Order. The Supreme Court ruled that fixed-odds betting terminals fit within the definition of gaming machines, and the legal advice is that that ruling applies here. The prize limits in the 1985 Order

¹⁰⁶ NI Assembly. Official Report. 27 September 2021.

<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2021/09/27&docID=350780#3626642>

therefore apply to fixed-odds betting terminals. The legal limits on stakes here are the lowest of any jurisdiction.”

Gaming machines stakes and prizes

The 2019 consultation paper noted that there are three types of gaming machine currently permitted under current NI legislation:

- Jackpot machines (£250 prizes/50p stake); and
- Two types of smaller prize machines (i) ‘higher’ prize machines (£25 prize/30p stake) and (ii) ‘lower’ amusement with prizes (AWP) machines (£8 prize/30p stake).

The most common premises for the playing of gaming machines are amusement arcades, commercial bingo clubs, bar areas of hotels and pubs, and registered clubs. Gaming machines may be used as an “incidental attraction” at fundraising social events such as fetes and dinners on a not-for-profit basis. A full list of the gaming machine categories in NI is available in Annex A of the [consultation paper](#). For comparative purposes the categories of gaming machines permissible in GB is available [here](#). Generally, stakes and prize levels for gaming machines in Northern Ireland are lower than those permitted in GB.

The Department’s 2019 consultation sought views on a number of issues in relation to gaming machines, i.e. should the law be amended to increase gaming machine stakes and prize limits in line with those in GB? Should higher stake jackpot machines be permitted in bookmaking offices, bingo clubs and amusement arcades where entry is restricted to those over the age of 18? Should the number of gaming machines allowed in certain premises (e.g. registered clubs, bookmaking offices) be amended? Should gaming machines (including jackpot machines) continue to be permitted as an incidental attraction at certain events provided they are not run for private gain? Should “lower prize” gaming machines continue to be permitted at travelling showmen’s pleasure fairs?

Gaming machines – technical standards

The Gambling Commission publishes [gaming machine technical standards](#) for GB that set out its requirements for game features, display notices and general machine operation. A different standard is published for each category of gaming machine. There are no similar technical standards available for gaming machines in Northern Ireland nor does the 1985 Order require these, according to the Department’s 2019 consultation. The consultation paper highlights that whilst many of the gaming machines used in Northern Ireland are manufactured in GB and therefore may meet the legal requirements in GB, the current lack of technical standards in GB “*means there is no way to ensure that machines are operated in a fair and open way*”. The consultation sought views as to whether gaming machine technical standards for GB should be adopted in NI.

Duration of licences

Licences, certificates and permits granted under the 1985 Order are renewable annually. The exception to this is track betting licences which run for seven years. The Department's 2019 consultation highlights that in GB, gambling licences are generally open-ended and that licensees are usually required to make an annual contribution towards the cost of the licensing system. The consultation points out that on one hand the current system requiring annual renewal could be interpreted as overly bureaucratic and expensive. However, on the other hand some may argue that the risk of not having a licence renewed serves to maintain standards in the industry.

The Department states that its "examination of the licensing system indicates a fairly 'settled' industry with few objections to the annual renewal of licences" and "it may therefore be appropriate to consider a longer licensing cycle". However, the Department also states that this must be balanced against the need to ensure that appropriate safeguards are in place to enable licences to be suspended or revoked where necessary. The consultation sought views on whether the current duration of licences was appropriate? If not, should the duration be changed to 3 or 5 years or should they be open-ended?

Casinos

Casinos are permitted in Great Britain but are not currently permitted in Northern Ireland. No provision for casinos was included in the 1985 Order as at that time it is stated that there was no evidence for any real demand for them. Changing the law to enable casinos to operate in NI was considered during a consultation exercise in 1997, however, in its 2019 consultation paper the Department stated that there was substantial opposition to such a change and therefore no proposals for casinos were brought forward. The consultation paper noted that in recent years interest has been expressed in developing a complex in Belfast with a casino component, but the proposals have not progressed. The Department sought views on whether the law should be amended to permit casinos to operate in NI.

Poker and other gaming in pubs and clubs

Poker tournaments, bingo and other equal chance gaming have become a source of entertainment and income for pubs and clubs in GB subject to certain restrictions and limits on stakes and prizes. NI law is much more restrictive in that poker and other such games cannot be organised commercially in licensed premises and registered clubs. The Department states, in its 2019 consultation paper that it is aware that in recent years some venues are offering gambling type opportunities as part of a wider entertainment offering (e.g. dancing, music, alcohol). It notes that whilst some of these appear to be for charitable purposes and are likely to be permitted under current law, it is clear that some are operating for private gain and would therefore appear to be unlawful. The consultation sought views as to whether the current legislation which

prevents licensed premises and registered clubs from offering poker, bingo and other equal chance gaming is still appropriate.

Licensed bingo clubs

The 2019 consultation paper sought views in relation to (a) prize gaming in licensed bingo clubs and, (b) monetary controls on the playing of bingo in a licensed bingo club. The Department's 2019 consultation sought views on whether the law should be amended to increase the prize gaming monetary limits in bingo clubs. It noted that the current monetary limits on prize gaming in bingo clubs is greater in GB than it is in Northern Ireland. The Department notes that an argument has been put forward that playing bingo in a licensed bingo club is a "softer" form of gambling and therefore there should be no statutory limits on participation charges and prize limits. The consultation noted that there has been considerable deregulation of bingo clubs in GB. It stated that there are no monetary controls on the playing of bingo games and rollovers are permitted. The consultation sought views on whether the law should be amended with respect to monetary controls and rollovers in licensed bingo clubs in Northern Ireland.

6 Concluding remarks

In more recent years there has been much needed increased recognition and focus on gambling related harm not just in Northern Ireland, but also in Great Britain and the Republic of Ireland. Analysis provided by the recent House of Lords Select Committee Report '[Gambling Harm – Time for Action](#)' highlights the extent to which the law, policy and practice governing gambling in Great Britain is spread across a number of UK Government departments and agencies (see Box 2 below extracted from the Committee's report). Given that gambling is largely devolved to Northern Ireland it is likely that a robust response to gambling-related harm will also involve a co-ordinated cross-Departmental approach here.

Box 2: UK Government departments with responsibility for gambling in Great Britain

Department for Digital, Culture, Media and Sport (DCMS) for gambling's association with sport and media (currently lead Department).

Department of Health and Social Care (DHSC) for health issues.

Home Office for the link with crime.

Ministry of Justice (MoJ) for the criminal justice system and with responsibility for coroners.

Department of Education (DfE) for education on the risks of gambling.

Department for Business, Energy and Industrial Strategy (BEIS) for the business implications for the gambling industry.

Ministry of Defence (MoD) for gambling among the military.

HM Treasury for the taxes raised by gambling.

During the [Second Stage](#) of the Bill, the Minister for Communities, indicated that she is taking steps to establish a cross-departmental group that will look at problem gambling. An enhanced co-ordinated approach to addressing the issue of gambling-related harm supported by actions may be perceived to be a positive development.

Northern Ireland does not have a specific strategy for reducing gambling harms although gambling is acknowledged in the new 10 year [mental health strategy](#). However, there are gambling-related harm prevention and minimisation strategies in other jurisdictions from which learning points can be extracted. For example, the Gambling Commission has published a three year [National Strategy to Reduce Gambling Related Harm](#) that focuses on issues such as gambling-related suicide, prevention education for children and young people, and research into issues such as what works in harm minimisation. The New Zealand Government views gambling related harm as a public health issue and its Ministry of Health has published a '[Strategy to Prevent and Minimise Gambling Harm](#)'. The Welsh Government have also recognised that gambling is an emerging public health issue for Wales. It was the subject of the Chief Medical Officer's [Annual Report](#) and [research](#) has been commissioned by Public Health Wales on the challenge and opportunities of framing a public health approach to gambling related harms¹⁰⁷.

As highlighted at the beginning of this Bill Paper there are gaps in local knowledge regarding a range of issues relating to gambling, for example, how the COVID-19 pandemic has impacted on local gambling prevalence and gambling related harm; the availability of, and barriers to, accessing local treatment and advice services; the impact of gambling-related harm on individuals, families and communities. Until recently, there does not appear to have ever been a co-ordinated approach to gathering evidence, particularly oral evidence, on the local gambling industry or issues around gambling related harm. Therefore, the responses to the Department's public consultation exercises on the regulation of gambling, the inquiry of the [All-Party Group on Reducing Harm Related to Gambling](#), and the Committee for Communities evidence sessions on the Bill will be critical to our understanding of gambling and gambling related harm in Northern Ireland. Themes may also emerge from these that may help shape the second phase of gambling reform proposed for the next Assembly mandate.

¹⁰⁷ Rodgers, R. et al. Framing a public health approach to gambling harms in Wales: challenges and opportunities. www.bangor.ac.uk/psychology/research/gambling/docs/Public-Health-Approach-to-Gambling-in-Wales-ENG.pdf