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Review of the Gaming and Lotteries Acts 1956-86

**Report of the
Interdepartmental Group**



DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM
AN ROINN DLÍ AGUS CIRT, COMHIONANNAIS AGUS ATHCHÓIRITHE DLÍ

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I Terms of Reference

The terms of reference of the Review Group were as follows:

1. To review the regulatory environment within which gaming and lottery activities are carried out with particular reference to:
 - the 1956 Gaming and Lotteries Act;
 - any other relevant or proposed Irish legislation;
 - international developments in the Gaming and Lotteries area.
2. To identify the issues arising from such a review and to make recommendations designed to address these issues in the context of securing a modern regulatory environment while fulfilling necessary social policy objectives.
3. To furnish a report on the above for consideration by the Minister and by Government by the end of 1999.

II Executive Summary

1956 Gaming and Lotteries Act no longer appropriate to current needs

The 1956 Act is not, for a number of reasons, providing the required control or regulation of gaming and lotteries activities. It has been overtaken by major developments in technology, national lotteries, internet-based gaming, and changes in the socio-economic profile of the country. There are serious problems with the enforcement of the laws governing gaming, and the nature of the regime governing lotteries (as also identified in the 1990 Costello report) is unsatisfactory. Against this background, therefore, the Review seeks to (a) provide those involved in promoting gaming and lotteries activities with a modern regulatory structure and (b) provide the public with the required safeguards and protections.

Conflicting images of gambling, gaming and lotteries

Gambling in its various forms is a popular social activity in this country, in particular, betting on horse racing and the National Lottery. In the public mind, gaming and gaming machines basically mean either the seaside fun-fair with a variety of amusement and slot-machines, or the less family-oriented urban-based arcade which reflects, perhaps, the less socially acceptable face of gaming. There are conflicting images here and gaming, therefore, has generally had a less than positive image. Lotteries, on the other hand, do not attract the same negative connotations.

International developments

There has been a major expansion of legal gambling throughout the UK, Europe and the US over the last twenty to thirty years. This has been facilitated by the growth of State lotteries and the legalisation of gaming and casinos both in Europe and in the US. The Internet, a medium which poses unique regulatory difficulties for the traditional law enforcement agencies, has been targeted by those seeking to provide gambling opportunities either legally or illegally. There are particular dangers inherent in Internet gambling, particularly for children and those with potential addictive problems. States, including Ireland will be required to form a response to gambling on the Internet through forms of national regulation, prohibition or otherwise, all of which pose serious operational and legal problems.

Need for a balanced approach

The 1956 Act is basically a restrictive measure, framed at a time when gambling world-wide was much more restricted and tightly controlled than is the case today. The Review Group's terms of reference suggested neither a liberal approach nor a movement towards liberalisation, in line with international trends. The Group, in endeavouring to set out the legal framework upon which gaming and lotteries activities should be based, did, however, take into account relevant developments both here and abroad. These include the establishment and rapid growth of the National Lottery, as well as other forms of gambling, the impact of the Internet and the relatively recent decision of the Government not to provide for casino-type gambling in this country. It also considered the various submissions received from a wide range of interests.

New legislation

In examining the overall situation, it became apparent that in order to give effect to what was emerging as a comprehensive set of changes and recommendations, a new statute would be required to replace the 1956 Act. While as a possible interim measure a number of amendments to various key provisions were considered, it was decided, with the exception of increasing the maximum prize for one category of lottery, not to proceed on this basis. This is primarily due to the desirability of having the overall regulatory and control machinery in place prior to the introduction of any new regime.

Gaming and Lotteries Authority

The Review Group noted the current roles of the Gardai and the Revenue Commissioners as the bodies directly responsible for the regulation and control of gaming and lotteries activities. It noted also the trend towards specialised regulation of niche activities across a number of sectors. In examining the situation, it concluded that the front-line control and regulation of what is basically an economic activity should reside in the first instance with a dedicated agency other than the Gardai. There will, however, be a continuing role for the Revenue Commissioners in relation to excise duty and related matters. In making this recommendation, the Review Group was anxious to ensure that such an arrangement would be as self-financing as possible and based on outline estimates of the turnover involved, and it is satis-

II Executive Summary

fied insofar as is possible at this stage, that this should prove to be the case.

The local authority role

The local authorities effectively control the extent of gaming throughout the country at present. The Review Group gave very careful consideration to their role in this respect.

This has been a controversial issue at times and the function does not, at first sight, sit easily with the roles usually associated with local authorities. However, it must be recognised that these are elected bodies reflecting the wishes of those whom they represent. In addition, the group noted the planned devolution of further powers to local government and the risk of proliferation of gaming were the powers to be totally removed. It therefore decided to recommend their retention, with certain safeguards.

Social downside of gaming and lotteries activities

A number of problems have been identified with gaming and slot-machine use. The exposure of children to gaming machines has been demonstrated to have potentially harmful effects. High-stakes slot-machine use, where the maximum prizes available can exceed £1000, constitute hard gambling. For those with a compulsive or addictive habit, regular exposure to such machines can, potentially, be extremely damaging. Problems on a similar scale have not generally been associated with lotteries in Ireland, although there is some evidence of addictive behaviour with lottery scratch cards.

Gaming machines

Insofar as the Review Group could ascertain, breaches of the law in relation to gaming and gaming machines are widespread. Problems have arisen with enforcement and definitions, and the use of tokens or credits in order to circumvent the law as it stands is common. The Review Group decided to recommend that provision be made for two classes of gaming machine, one to be located only in premises/areas licensed for gaming, as well as a low prize-level, non-cash, amusement-with-prizes machine with no restrictions on siting or use. To underpin the new arrangement, a centrally-controlled system of certification/classification of all gaming machines is also recommended.

Gaming - stake and prize limits

The current limits are unchanged since 1956 and this situation clearly needs to be addressed. The Review Group considered a wide range of suggested increases for revised prize and stake limits received via the submissions to the review. In recommending a 50 cents maximum stake and a 20 Euro maximum prize for gaming machines, it also took into account the lack of demand for increased levels from the public. In addition, it recommended that these limits not be enshrined in primary legislation in the future.

Lotteries

While the operation of lotteries has not, over the years, given rise to problems or concerns of major proportions, their regulation and control under the 1956 Act has raised a number of issues. These have included difficulties with the reporting requirements under the 1961 and 1966 regulations. The Review Group decided to recommend a revised structure comprising four classes of lottery, all of which should be regulated by a Gaming and Lotteries Authority. It considered that sales/marketing promotions which contain a lottery element should require a permit (in respect of the lottery element). The review recommended an immediate increase of 50% in the maximum weekly prize fund for the larger, periodical-type lotteries. The basis for the monitoring and control of all lotteries should be set out in detail in regulations to be made by the new Gaming and Lotteries Authority with the consent of the Minister.

Need for consultation

The Review Group felt that some form of consultative mechanism should be put in place to provide for ongoing consultation between the various regulatory bodies involved in the control of gambling in this country.

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Implementation of the recommendations of the review

A Bill should be brought forward to replace the 1956 Gaming and Lotteries Act, which should largely cover the same areas as the existing Act. [Paragraph 7.2]

Overall control and regulation of gaming and lotteries

Direct responsibility for the overall regulation of gaming and lotteries should be vested in a Gaming and Lotteries Authority which should, as far as possible, be self-financing on the basis of fees and other charges for the range of inspection and other services provided. Such fees and charges, should, when introduced, be separate and distinct from the existing range of revenue excise duties which will remain in force.

[Paragraphs 4.20, 7.3]

Local authority powers

The new legislation should provide for the retention of local authority powers as, currently provided by the 1956 Act (but with certain adjustments) in respect of gaming within their administrative areas, subject to statutory provision for what follows:

In cases where a local authority decides to rescind a motion which allows gaming to take place, consideration must be given to hardship arising for existing operators whose compliance with relevant requirements is not in question. In doing this, a deferral of the coming into force of a rescinding motion for a period of up to two years should be considered.

All rescinding motions should be accompanied by a detailed statement giving reasons for the motion and setting out the background to the reasons for the rescinding.

[Paragraphs 4.2, 7.4]

Licensing of premises for gaming

Subject to the exercise of the local authority function, premises in which gaming machines are to be located, including amusement halls, arcades or other premises should continue to require a licence which may be obtained from the Revenue Commissioners, on the basis of a certificate obtained, on application, from the District Court.

[Paragraphs 4.3, 7.5]

Gaming machines

Definitions of gaming machines should be

revised to remove any scope for circumvention of the law.

A new fee-based system of classification of gaming machines should be introduced with two classes of machine: (i) gaming and (ii) amusement with prizes (AWPs).

Gaming machines should be located exclusively in premises which are licensed for the purpose and sited in discrete areas of such premises, free of AWPs, and away from video or other forms of amusement-only machines. If it is proposed to site such machines in the same premises, the proposed siting layout should be submitted in advance of the licence application and should be subject to the approval of the Gaming and Lotteries Authority.

There should be no restrictions on the siting of (non - cash prize) amusement - with - prizes machines (AWPs), operated in accordance with the permitted stake and prize limits.

A minimum verifiable percentage payout level, to be set by the Gaming and Lotteries Authority, should apply to all gaming and AWP machines. Arrangements for the calibration of the machines and for inspection checks etc. should be put in place by the Gaming and Lotteries Authority.

The prohibition on locating gaming machines in licensed premises should be maintained and extended to all premises licensed for the sale of alcohol and excisable liquor.

[Paragraphs 4.9, 4.11, 7.6]

Gaming machine stake and prize limits

(i) An increase in the stake and prize limits for all gaming and gaming machines to 50 cents and 20 Euro (39p and £16) maximum respectively, should be introduced as soon as the revised regulatory machinery is in place and (ii) amusement - with - prizes machines (AWPs), should have a maximum stake of 25 cents (19p) and maximum non-cash prize to the value of 6 Euro (£5.00).

The maximum amount/value of “credits” that gaming machines should be permitted to hold or display at any one time should be not greater than twice the permitted maximum stake.

Provision should be made for the adjustment of stake and prize limits for gaming by Order, by

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the Gaming and Lotteries Authority, with the approval of the Minister.

[Paragraphs 4.8, 7.7]

Gaming at funfairs, carnivals, and other special or once-off events

Gaming in conjunction with carnivals, travelling shows etc., conducted in accordance with the general provisions of the new legislation, should be allowed under temporary permit from the Gaming and Lotteries Authority. Such permits may attach additional conditions as appropriate to the circumstances.

[Paragraph 7.8]

Casinos

The ban on casino-type gaming included in the 1956 Act, should be retained in the new legislation to confirm current policy in this area.

[Paragraphs 4.7, 7.9]

Lotteries

Provision should be made for four types of lottery:

Category 1 Lotteries

Lottery schemes (including bingo) with a maximum prize fund of £15,000 per week, or £50,000 per month, operated under a licence issued by the Gaming and Lotteries Authority.

Category 2 Lotteries

Lotteries (including bingo) with a maximum prize fund of £3,000 per three month period, operated under a permit to be issued by the Gaming and Lotteries Authority.

Category 3 Lotteries

Lotteries with a maximum prize fund of £500, limited to one lottery per month, without the requirement for a permit or licence but complying with requirements as set out in regulation by the Gaming and Lotteries Authority.

The beneficial interest in the above lotteries should rest with philanthropic, charitable or other similar interests, and no personal gain should accrue to the operators/promoters

and

Category 4 Lotteries

Lotteries operated in conjunction with, or as part of, sales or marketing promotions. The lottery element of such enterprises should not involve any personal gain for the promoters/operators. A permit should be obtained from

the Gaming and Lotteries Authority on application in a prescribed form.

[Paragraphs 4.12 to 4.16 incl., 7.12]

Appropriate fees should be payable on application to the Gaming and Lotteries Authority for lottery licences, permits, registrations, etc..

[Paragraph 7.3, 7.12]

Cap on lottery prizes

The Review Group recommends that the prize limit for periodical lotteries under section 28 of the Gaming and Lotteries Act be revised to £15,000 per week. This adjustment should be implemented as soon as possible by Ministerial Order.

[Paragraph 7.13]

Foreign lotteries

The prohibition on the promotion of foreign lotteries within the State should be retained

[Paragraph 7.14]

Internet gaming and lotteries

New legislation should ensure that prohibitions on specific elements of gaming and lottery activities within the jurisdictions should be enforceable in both on-line and off-line environments. Providers of such on-line services should be able to guarantee that national law in this area is capable of being complied with.

It should be noted that regulation of any Internet-based National Lottery activities will remain subject to the provisions of the National Lottery Act 1986.

[Paragraphs 5.6, 7.15]

Age limits for gambling

An age limit of 18 years should apply to the use of gaming machines other than AWP's, the purchase of all lottery tickets, and the placing of bets with the totalisator.

The new Act should place the responsibility for ensuring that the age limit is strictly enforced on the operators/proprietors of gaming premises and the vendors of lottery tickets.

[Paragraphs 4.21, 7.16]

Offences, enforcement, penalties and related issues

Stringent penalties which reflect the gravity of the offence, and which are in line with those for illegal betting included in the Finance Act should be provided to ensure sufficient deterrent for compliance. Penalties should include

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provision for the forfeiture of machines and equipment.

In the case of alleged breaches of the law, prosecutions should be instigated by the Gaming and Lotteries Authority. This will not affect the existing powers of the Revenue Commissioners to act in revenue-related cases.

[Paragraphs 4.20, 7.17]

Coordination of gambling policy

A non-statutory mechanism should be put in place to facilitate ongoing consultation between the various agencies involved in the control and regulation of all forms of gambling in Ireland. The primary objective should be to provide for an integrated and balanced approach to the various social policy considerations which arise in the gambling area.

[Paragraphs 1.8, 7.18]

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1. Introduction

1.1 Departmental policy

In line with the Government's policy of regulatory reform, it is the policy of the Department of Justice, Equality and Law Reform to bring forward proposals to update, where necessary, all legislation which falls within its remit. A commitment to review the 1956 Gaming and Lotteries Act was therefore included in the Department's Strategy Statement for the years 1998-2000. Arising from this commitment, the Minister approved the establishment of an Interdepartmental Group in order to carry out the review.

1.2 The Review Group - membership and modus operandi

In May 1999, the Minister for Justice, Equality and Law Reform requested a group consisting of representatives from his Department as well as the Departments of Finance, Environment and Local Government, the Garda Síochána and the Revenue Commissioners to undertake the review in accordance with the terms of reference. The membership of the Review Group is at Appendix 2.

Public advertisements announcing the review and seeking submissions from the public were placed in the national press on 3 June 1999 (see Appendices 3 and 4). The Review Group met on a total of eleven occasions between July 1999 and February 2000. Seventy-three written submissions were received and the Group also heard a total of thirteen oral submissions. In considering the issues before it, the Group reached consensus on all aspects, although some issues were particularly difficult to resolve and gave rise to lengthy discussions.

1.3 The spirit of the 1956 Act

The Gaming and Lotteries Act, 1956, (No 2 of 1956), is the statute which sets out to control and regulate gaming and lottery activities (other than State-sponsored lotteries) in this State. The Act was framed in sympathy with an underlying ethos that the demand for gambling should be strictly regulated and not actively stimulated. It starts by rendering all forms of gaming and lotteries unlawful, but exempts, on certain conditions, some lotteries and limited gaming for small stakes. The spirit of the 1956 Act is reflected in the comments of the then Minister for Justice when, in introducing the Bill at second Stage, he said that "gaming and lotteries are ... activities which, in our view are rather to be tolerated than favoured".¹ While

this attitude may appear to have been somewhat austere, this was a period of economic depression. (The approach of Governments here and elsewhere was, where possible, to limit gambling opportunities in the public interest while recognising that a certain level of gambling would always be inevitable, and providing for such within a controlled environment.)

1.4 Governments and gambling

Apart from the implication of social policy objectives, another important consideration which has invariably influenced the approach of Governments to gambling has been its potential as a source of revenue. Where revenue opportunities through gambling have arisen, Governments have been, and remain, prepared to promote, protect and legislate for gambling enterprises of one form or another. Thus, in the same year as the introduction of the Gaming and Lotteries Act - a relatively restrictive measure - the Government launched what was effectively its own lottery with much larger prizes - the Prize Bond scheme. It also co-operated with the establishment and operation of the Hospitals Sweepstakes, which relied to a large degree on foreign sales in the UK and the US (contrary to the spirit of the 1956 Act which rendered the promotion of foreign lotteries within this State unlawful).

Accordingly, there has been, and continues to be, a tension between social policy objectives of containment on the one hand with legitimate revenue generation potential on the other. The resolution of this tension continues to be a challenge.

1.5 International comparisons

In the international context, the gambling regime in Ireland following the enactment of the 1956 Act was not particularly restrictive. Off-course betting (with bookmakers) was illegal in the UK until 1961, whereas bookmakers' offices had been permitted in Ireland since 1926. Likewise, in the US, with the exception of horse racing and casinos, which were first legally introduced in Nevada in 1931, legal gambling opportunities were extremely limited until the 1970s, when gambling, mainly through state lotteries, began to see real growth throughout most states.

1. Dail Reports, 20 April 1955 to 24 May 1955, Gaming and Lotteries Bill, 1955 - Second Stage, Vol 150 col. 84.

1. Introduction

1.6 Compulsive and addictive gambling

The appetite for gambling was (and still is) perceived to be greatest amongst those who can least afford it, and who thus require protection. The serious social and personal consequences of compulsive gambling behaviour remain as relevant to today's society as when the Act was framed. Pathological or compulsive gambling has been described as "an impulse control disorder". Personal problems experienced by individuals afflicted with this condition include various forms of destructive behaviour such as:

- involvement in crime, including theft from employers, to finance gambling;
 - incurring large debts;
 - damaged relationships with family and friends;
- and
- in some cases suicide and attempted suicide.

The numbers affected are difficult to assess. A 1999 study in the US² concluded that approximately 1.2% of the adult population are lifetime pathological gamblers. An earlier study in 1984³ placed the figure closer to 1%. These estimates, however, exclude milder categories such as "problem" gamblers, who may not suffer to the same degree the damaging consequences as experienced by compulsive or pathological gamblers. This topic is dealt with in greater detail in Chapter 4.

1.7 Social changes

In the forty-four years since the introduction of the Act, the economic, social and cultural profile of the country has, undoubtedly, undergone profound change. Throughout the 1990s in particular, unemployment has fallen to an all-time low, the price of property has spiralled and the economy has shown record growth. The recreational profile of the population is now much different to that which pertained in the 1950s. Travel to other countries is now the norm and people are being exposed to a range of differing cultures and to different attitudes to social issues, including gambling. The latter half of the twentieth century has, in fact, seen major growth in legal gambling world-wide, in particular in the United States. There have been major developments in the areas of State lotteries here, in Britain and throughout Europe. Against a background of all these changes, the appropriateness and relevance of the 1956 Act to today's society now falls to be reassessed,

both in terms of domestic policy and international considerations.

1.8 Divergence of betting legislation

The licensing of bookmakers in Ireland was first provided for by the Betting Act of 1926 and has always been strictly controlled, not least due to the excise/revenue aspect. Separate legislation was introduced in 1929 under which the totalisator was established to provide "pool betting" at racecourses and greyhound tracks. These forms of betting have been associated with horse and greyhound racing and have been regulated with regard to the nature and welfare of the horse and greyhound racing industries. Levies on (on-course) betting turnover were diverted to the upkeep of racecourses and greyhound tracks and increased prize money. Thus, the legislation in this area has been traditionally seen in a different light to that governing gaming and lotteries.

In recent years particularly, bookmakers have begun to develop their businesses and today offer a wide range of options to their customers. These include, apart from betting on horse and greyhound racing, gambling on mainstream sporting events taking place both here and abroad, including soccer, tennis, golf and gaelic games and combinations of these events. In addition, they take bets on lottery numbers. All of these activities remain within the scope of the various Betting and Finance Acts.

Having regard to the above and while acknowledging that there is now a greatly increased potential overlap between various forms of gambling activities, particularly in the light of recent technological advances, the Review Group took the view that their terms of reference precluded them from making any recommendations in respect of betting, as opposed to those activities which fall within their terms of reference i.e. gaming and lotteries.

1.9 Economic relevance of gaming and lottery activities

Reliable figures quantifying the economic profile of those gaming and lottery activities which fall within the scope of the 1956 Act are not available. In order to assess the relative position occupied by these activities within the overall context of gambling in Ireland, however, some attempt is needed to estimate the annual turnover involved.

1. Introduction

In 1998, 149 gaming premises licences were in force, and 10,530 gaming machine licences were issued. The number of periodical lottery licences issued by the courts was 1,636 and a total of 6,117 occasional lottery permits were granted by the Gardai. Audited figures submitted to the Charitable Lotteries Fund place the total turnover of the twelve largest charities' weekly draws and scratch-card sales in 1998 at £7.9mn. This figure excludes bingo and other forms of draws and lotteries. It is not possible to estimate the number of "Private" or other small lotteries during the same period. Data based on returns made under the statutory Lottery Regulations is not helpful for reasons referred to elsewhere in this report (see paragraph 4.17). In their VAT returns to the Revenue Commissioners, the operators of licensed gaming premises and travelling fun-fairs are not required to differentiate between gaming and non-gaming turnover. Many of

these businesses provide services other than gaming, such as amusement-only activities, sales of food, beverages, etc.. For the above reasons therefore, it is not possible to compile an accurate estimate of the turnover of either gaming or lotteries in the State.

In attempting to estimate the turnover of these activities, however, the Review Group considered a number of options, none of which were particularly satisfactory. A reliable industry source places the bingo market in 1998 at £50mn and other gaming and lottery activities at a total of £40mn in the same year, thus giving a total figure for turnover of all gaming and lottery activities at £90mn. While this estimate is to be treated with some caution, it indicates that the total gaming and lotteries market in Ireland coming under the Group's terms of reference is probably less than 10% of the total Irish gambling market.

Gambling in Ireland, 1998

Activity	£mn	%
Betting with bookmakers, totalisators	669	61.1
The National Lottery	337	30.7
Gaming, lotteries, bingo, etc. (estimate)	90	8.2
Total	1,096	100

2. Brief Overview of the 1956 Act

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2. Brief Overview of the 1956 Act

2.1 Structure of the 1956 Act

The Act is divided into five Parts containing 51 sections and a Schedule:

Part		Sections
1	Preliminary and General	1 to 3
2	Gaming	4 to 11
3	Licensing of Amusement Halls and Funfairs	12 to 20
4	Lotteries	21 to 35
5	Enforcement, Evidence and Penalties	36 to 51

The Schedule lists the enactments to be repealed in whole or in part. The Act with amendments to date is included in full at Appendix 1.

2.2 Part I - Preliminary and general

This section includes the short title and commencement and a number of definitions, as well as a section which repeals the enactments listed in the Schedule. Definitions listed include gaming, gaming instrument, and lottery. A gaming machine or slot machine is not defined but a definition of a gaming instrument is included.

2.3 Part II - Gaming

Main features

- All gaming, except that which is specifically provided for under the terms of the Act, is prohibited. This is an important aspect and sets the minimalist tone which underpins the Act.
- Games where, by reason of the nature of the game, the chances of all players including the banker are not equal, are specifically prohibited - this means that casino-type games such as roulette or blackjack are illegal.
- Unlawful gaming is first defined and an offence is established for promoting or helping to promote (including providing a premises) unlawful gaming.
- Provision is included for two types of gaming: that carried on at a travelling show, carnival or similar event, or at a licensed amusement hall or funfair. A number of exceptions are then identified.
- The Act prohibited slot machines which delivered money prizes but this section (10) was subsequently repealed (see paragraph 7.8). Gaming in licensed premises is prohibited under section 9, and section 11 prohibits cheating in the course of gaming.

2.4 Part III - Licensing of amusement halls and funfairs

Main features

- In the case of amusement halls and funfairs, an application may only be made to the District Court regarding a premises which is located within an area in respect of which the local authority has passed a motion adopting Part III of the Act. (i.e. where the local authority has allowed gaming in the area).
- In the event of the District Court refusing an application, there is a right of appeal to the Circuit Court.
- The stake in all forms of lawful gaming is limited to 2.5p, and the prize to a maximum of 50p. There are no instances where these limits may be exceeded.
- The gaming (premises) licence is issued by the Revenue Commissioners on foot of a certificate from the Court.

2.5 Part IV - Lotteries

As with gaming, the Act renders all lotteries, other than those specifically provided for, unlawful.

Five main categories of lottery are permitted:

1. Lotteries limited to members of a society or those working or residing on the same premises - no prize limit.
2. Lotteries conducted in conjunction with a dance/concert etc. - maximum prize £25.
3. Lotteries promoted in conjunction with a circus, carnival or travelling show or at a licensed amusement arcade or funfair - stake and prize limits of 2.5p and 50p.
4. Lotteries operated under a permit issued by a Garda Superintendent - maximum prize £3000 (limited to one lottery per six month period).
5. Lotteries operated under a licence issued by a District Court - maximum prize £10,000 per week.

There are a number of significant conditions and restrictions included in respect of these lotteries. With the exception of (1) and (3) above, no lottery may be promoted for personal gain or profit. The promotion of foreign lotteries is prohibited and there are restrictions on advertising of lotteries. There is a limit (40% of the gross proceeds) on the expenses used in operating a lottery at (5) above, and under regulations made under the Act in 1961 and 1966, there are detailed reporting requirements in

2. Brief Overview of the 1956 Act

terms of returns to the Gardai of accounts, prize winners, expenses, etc.

2.6 Part V - Enforcement, evidence and penalties

- Part V at section 36 restates a long-standing legal convention which places gambling contracts outside the law. This provision was first included in the Gaming Act of 1845 (which was repealed by the 1956 Act). Recourse to law to resolve gambling disputes had become commonplace in nineteenth-century England and the resultant clogging of the courts with such cases gave rise to concern among members of the judiciary. The provision addressed this issue by taking gambling debts out of the legal process altogether.
- Also included are sections in relation to Garda powers of seizure and entry, forfeiture of gaming instruments, issue of search warrants (which may only be issued to and executed by a Garda of not less than Inspector rank), arrest, revocation of gaming licence and penalties.
- The interception of postal packets is also legislated for, presumably with foreign lotteries in mind.
- Section 51, the final section, provides for the exclusion from the terms of the Act of the now defunct Hospital Sweepstakes, a form of lottery which was conducted in conjunction with major horse races and which operated under the Public Hospitals Acts of 1933 to 1940.

Offences under the Act are generally punishable by a fine of £100 and/or 3 months imprisonment.

2.7 Schedule - Repeals

A total of 22 Acts in relation to gaming and lotteries were repealed by the 1956 Act. These dated from 1698 to 1923 and all but one (50 of 1923) were English enactments. In addition, two Acts relating to licensing and intoxicating liquor were part-repealed.

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3. Significant Developments since 1956

3.1 The law before 1956

Between the foundation of the State and the passing of the 1956 Act, a relatively small number of gambling-related provisions were enacted. The Gaming Act of 1923 was a narrow provision dealing with the recovery of securities advanced in the course of gambling transactions. The Betting Acts of 1926 and 1931 provided for the licensing and operation of bookmakers. The Totalisator Act of 1929 provided for the establishment of the tote, and the Irish Hospitals Sweepstakes Acts of 1930 and 1931 established the Hospitals Sweeps, a form of lottery run in conjunction with major horse races. During this period, and up until 1956, all gambling, gaming and lotteries which fell outside the remit of the above provisions was, in theory, subject to a number of older English enactments, some dating from the seventeenth century (all of which were repealed by the 1956 Act). There was, however, little active control or regulation.

3.2 Pre - 1956 gaming/lotteries

The main activities in the area at that time were a number of large charitable lotteries, one of which, the Belfast Mater Hospital lottery, dominated the market and generated large sums of money. In 1951/52 this lottery - known as the Y.P. Pools - which operated in Ireland both North and South as well as in the UK, is reported to have raised £170,000 for the Belfast Mater Hospital. The other main activities were bingo, then widely known as “Pongo”, (the term “bingo” was a later American import) mainly promoted by Church and other charities, and gaming conducted in conjunction with travelling shows and circuses.

3.3 Immediate effect of the 1956 Act

The main thrust of the Act was to limit lotteries to smaller local promotions organised totally within the State, and to strictly regulate and control gaming activities. The Act was successful in shutting down larger lotteries such as the Belfast Mater Draw, which ceased operations south of the border shortly after it came into force. Gaming continued under the new regime mainly at seaside resorts and in conjunction with travelling shows. A total of forty-two local authorities passed motions adopting Part III of the Act (in order to allow gaming within all or parts of their administrative areas) within the first two years, although many of these motions, particularly in urban areas, were subsequently rescinded (see Appendix 5).

3.4 1956 - Prize Bond Scheme

The Finance Act of 1956 gave effect to the establishment of the Prize Bond scheme. Its purpose was basically to raise funds for the Exchequer and the scheme was exempted from the terms of the 1956 Gaming and Lotteries Act. A similar scheme was also launched in the UK earlier in the same year. It could be argued that the “lottery” element in the Prize Bond scheme is in the distribution of some of the interest on the fund while the “investors” or speculators, in theory, retain access to their investment. With inflation, however, the value of the original investment is eroded to a greater extent than would be the case if interest were applied. The State, in effect, holds the capital and repays a portion of the interest as prizes, retaining the balance as profit. There was some criticism in the Dail at the time the State’s resorting to a form of gambling in order to raise finance. One Deputy compared the scheme to “the Government running a pool-room or making a book”⁴.

3.5 1956 - Excise duty on gaming licences

The 1956 Finance Act introduced an excise duty on gaming licences issued by the Revenue Commissioners. The current rates of duty are listed in Appendix 6(d).

3.6 1961 - Lottery regulations

In September 1961, detailed regulations governing the keeping of records and accounts in relation to lotteries were made by the Garda Commissioner with the consent of the Minister for Justice, under section 50 of the Act. These regulations affected periodical lotteries only and are dealt with later in this report. The obligations imposed on operators have proved virtually impossible to satisfy, particularly with the advent of scratch-card type lotteries.

3.7 1965 - Bingo found to be a form of lottery

In 1965, a Supreme Court Judgement⁵ found bingo to be a form of lottery. This placed most forms of bingo in difficulty regarding compliance with the 1961 regulations. In order to address the situation and to alleviate the difficulties facing charities, the 1961 regulations were amended, removing the obligation to furnish to the Gardai the names, addresses of prize winners and other details, and allowing each session of bingo to be treated as one lottery for the purpose of the 1961 regulations.

4. Dail Reports, 24 October to 13 December 1956, Finance (Miscellaneous Provisions) Bill, 1956, Vol 160 col. 1715
5. Bolger v. Doherty, Supreme Court, 22 January 1965. [1970] I.R. 233.

3. Significant Developments since 1956

3.8 1969 and 1978 - Gaming machine rulings

In 1969 a court case resulted in the Supreme Court upholding the view of a District Justice that the operation of particular gaming machines (which had been in wide usage throughout the country) was in fact contrary to the 1956 Act. The machines had been adapted in order to circumvent the stated blanket prohibition in the Act of a machine delivering, when successfully operated, a money prize. Winnings were delivered to the player by an indirect route, usually by channelling the coins through a chute at the rear, to an operator who would then hand the money to the player. The Act was subsequently amended in 1970 in order to remove the original prohibition (under section 10). Gaming machines which paid out cash direct to the player were now, seemingly, quite legal. The situation had therefore evolved from 1956, when an outright ban was intended, to a position thirteen years later where the opposite was legislated for, basically in order to preserve the situation which had developed in the intervening period.

In 1978 the Supreme Court found that due to the non-repeal of a cross-reference in section 4 of the Act in the 1970 Act, no limits on stakes and prizes actually applied to slot machines. This situation was corrected by a further short Act in 1979, which had the effect of confirming the stake and prize limits.

3.9 1975 - Excise duty on gaming machines

Section 43 of the 1975 Finance Act introduced an excise duty on gaming machine licences issued by the Revenue Commissioners. The current rates of duty are listed in Appendix 6(e).

3.10 1985 - Caffola case⁶

By the 1980s, the limits on stakes and prizes of 2.5p and 50p respectively had begun to shrink considerably in terms of real value from the levels as set in 1956. It was in this context that the Caffola case was contested in 1985. An amusement hall operator sought to have the 1956 Act declared unconstitutional on the grounds that the values set in 1956, and which still applied, represented an attack on his constitutional right to earn a livelihood. There had been an increase in the Consumer Price Index of 950%, with no accompanying increase in the limits for gaming set by the Act in 1956.

The case was lost as the Supreme Court found that the State was entitled to maintain the restrictions “when they were so clearly imposed, with due regard to the exigencies of the public good”.

3.11 1985 - Gaming and Lotteries Bill

At around the same time as the Caffola case, a Gaming and Lotteries Bill was published by the then Minister for Justice. This Bill was brought forward on foot of concerns regarding possible redundancies within the amusement arcade industry which were feared if the status quo regarding the stake/prize limits was confirmed and enforced. The Bill proposed increases in the maximum stake and prize permitted in gaming to 10p and £20 respectively, an increase in the age limit for gaming from 16 to 18 years and allowing the Minister powers to vary, by regulation, the same stake and prize limits and the limits applicable to lotteries under the 1956 Act. The Bill was withdrawn at second stage in December 1985 when it failed to attract all-party support. The then Minister decided, in the circumstances, not to pursue the matter further, short of a more comprehensive review of the 1956 Act.

3.12 1986 - The National Lottery

Arguably the most significant development in terms of gambling in general and lotteries in particular, was the introduction of the National Lottery under an Act of the same name in 1986. The National Lottery is excluded from the terms of the 1956 Act. The National Lottery Act does, however, contain provisions enabling the Minister for Justice to vary, by regulation, the prize limits set for lotteries and removes the restrictions on advertising of larger lotteries contained in the 1956 Act. The National Lottery sells its products through approximately 3,500 retail outlets throughout the country, 2,000 of which are Lotto agents. Between March 1987 and January 2000, 135 varieties of scratch-card games were introduced. The 5-4-3-2-1 game was introduced in 1997 and Tellybingo, a form of inter-active bingo transmitted live on television, was launched in 1999. Total sales of National Lottery products amounted in 1998 to £337mn, while in the same year the total amount wagered on horse and greyhound racing, and with off-course bookmakers, was £669mn. As pointed out in paragraph 1.9, the total estimated “take” of the gaming and lottery activities under review is approximately

3. Significant Developments since 1956

£90mn. The National Lottery is now, therefore, one of the largest promoters of gambling in the State, although the activities involved would be viewed as being at the “soft” end of the gambling spectrum.

We now, therefore, have a situation where the State on the one hand is severely restricting certain limited forms of gambling, while on the other hand it is actively encouraging the public to purchase a wide range of lottery products. The justification is, of course, the fact that the proceeds of the latter, which average about 60% of turnover, are dedicated to a range of good causes including youth, sport, recreation and the arts.

3.13 1986 - The Irish Hospitals Sweepstakes cease operations

The Irish Hospitals Sweepstakes finally ceased operations in January 1986 when the last draw was held. In March 1987, the company, the Hospitals Trust Ltd, was placed in voluntary liquidation. The Sweepstakes had peaked in 1961 with a turnover of £18mn, but by the early 1980s, sales had declined to a point where the expenses had begun to exceed the statutory limit of 40%. The Sweepstakes had traditionally depended for a large proportion of its turnover on foreign ticket sales, mainly in the U.K and the United States, but the rapid growth of State Lotteries in the US from the 1970s onwards marked the beginning of the end. The Sweeps were, of course, illegal everywhere except in Ireland, but had nevertheless, with the tacit approval of the State, managed to earn major sums for the hospitals who benefited during a period of over 50 years.

3.14 1987 - Increase in prize levels for some lotteries

As stated at paragraph 3.12 above, the National Lottery Act included some amendments to the 1956 Act. The charitable/fundraising organisations who had been engaged in lotteries prior to the introduction of the National Lottery were concerned at the negative effect which the Lottery might have on their operations, particularly with the low levels of prizes permitted under the 1956 Act. The total removal of any “cap” or limit on lotteries was called for in some quarters. In order to address these concerns, an Order made in 1987 under section 33 of the National Lottery Act increased the limits for occasional and periodical lotteries to £3,000 and £10,000

respectively. It also removed certain restrictions on the advertising of such lotteries.

3.15 1990 - Committee on Fundraising Activities for Charitable and Other Purposes⁷

The report of the above Committee was published in 1990. The Committee, which was chaired by the Hon. Mr Justice Declan Costello, was requested, inter alia, to examine the adequacy of the statutory controls over fundraising for charitable purposes and to make recommendations for any changes considered necessary.

The background to the establishment of the Committee was a certain amount of public disquiet and unease regarding possible abuses in the area of fundraising for charitable purposes as well as alleged inadequacies in the existing legislation governing fundraising and charities generally. Charitable fundraisers rely heavily on the promotion of lotteries, bingo and other forms of draws and are subject in this regard to the provisions of the 1956 Act. Where large amounts of money are collected from the public, whether through lotteries or public collections, it was deemed to be in the interest of all organisations involved that a reliable and effective system of checks and balances be seen to be in place and working to ensure that public confidence is maintained.

The Costello Committee in the course of its deliberations examined the Gaming and Lotteries Act and made a number of recommendations. The Committee also recommended the establishment of a central registration body for national fundraising organisations, to be known as the Charity Commissioners whose duties would include the registration of periodical lottery schemes, thus removing the licensing function from the District Court. The Committee made a number of other detailed recommendations regarding the registration of charitable organisations, annual returns, records, public inspection, collections, etc.. Regarding the 1956 Act, the Committee proposed a number of amendments, including changes in the conditions governing “private” lotteries, a reduction to 35% of the “cap” on expenses in periodical lotteries, a ban on street selling of tickets for lotteries held under permit, and the registration of periodical lottery schemes promoted throughout the whole country. The Charity Commissioners would be empowered under Ministerial regulation to approve or reject such applications on stated grounds.

7. Report of the Committee on Fundraising Activities for Charitable and Other Purposes, Government Publications, Dublin, 1990.

3. Significant Developments since 1956

3.16 1993 - Tax clearance requirement for gaming (premises) licences

The Finance Act of 1993 at section 79(3) extended the tax clearance provisions to licences issued by the Revenue Commissioners under section 19 of the 1956 Act. This was intended to ensure that applications for gaming licences would not be approved in cases where the tax affairs of the applicant were not up to date.

3.17 1996 - The Report of the Advisory Group on Charities/Fundraising Legislation

This Group, which was chaired by Ms Joan Burton T.D., Minister for State at the Department of Justice, included representatives of a number of charitable/fundraising groups. The main objective of the Group was to provide practical recommendations for legislative reform in the area of fundraising for charitable and other purposes, having particular regard to the earlier Costello report. The Group reported in 1996 and generally, but with some exceptions, supported the recommendations of the earlier Costello report. Significant exceptions in respect of lotteries were that the “cap” on prizes for periodical lotteries be removed - presumably to allow the voluntary sector to compete on a level playing field - and that the limit of 40% (Costello recommended a 35% limit) on expenses in such lotteries be removed, but with full disclosure of accounts. It supported the fundamental recommendation in the Costello report that a registration authority be established with which all organisations which solicit funds from the public and from funding agencies should be obliged to register.

3.18 1996 - Casino proposals

The 1956 Gaming and Lotteries Act effectively prohibits the operation of casinos in Ireland. Following receipt of a proposal for the development of a National Convention Centre which included a casino element, the Government in 1995 requested the Minister for Finance to establish an inter-Agency Task Force to examine all aspects of the question of the possible licensing of casinos. Following consideration of the report of the Task Force, the Government in June 1996 decided not to give further consideration to the introduction of legislation to provide for casinos.

3.19 1997 - Charitable Lotteries Fund

Prior to and following the launch of the National Lottery in 1986, many of the established charities who were traditionally dependent to some degree on lotteries for fundraising purposes protested at what they perceived as unfair competition which would have a negative effect on their fundraising operations. In 1997, the Minister for Finance responded by establishing the Charitable Lotteries Fund. This fund is administered by the Department of Finance acting on the advice of an Interdepartmental Advisory Committee under an independent chairman which advises on the criteria to be employed in the distribution of the funds. The overall objective is to assist charities whose comparable lotteries have been adversely affected by the National Lottery. The Fund is resourced from the National Lottery surplus. Details of payments from the fund to date are at Appendix 8.

4. The Principal Issues

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4. The Principal Issues

4.1 Definitions - gaming and lotteries

The Act describes gaming as “playing a game (whether of skill or chance or partly of skill and partly of chance) for stakes hazarded by the players”. The essential element which would seem to be required is the utilisation of some form of equipment, such as a gaming table, dice, cards, slot machine etc. Definitions of what constitute gaming and gaming machines have caused problems in the past, notably in the 1969 and 1978 court cases relating to gaming machines, both of which necessitated urgent amending legislation.

The Act describes a lottery as including “all competitions for money or money’s worth involving guesses or estimates of future events or of past events the results of which are not yet ascertained or are not yet generally known”. In broad legal terms, a lottery has been found to require three elements:

- the distribution of prizes;
- the distribution to be totally random;
- an element of consideration or payment to participate.

In the 1965 case upheld by the Supreme Court which found bingo to be a form of lottery, the definition of a lottery in the 1956 Act (as well as the entire definitions section of the 1956 Act) attracted some criticism from the High Court. Prosecutions have been taken in the past in a number of cases involving lotteries which purported to satisfy the Act’s requirements. These included forms of marketing/sales promotions where the particular scheme, although not involving the actual sale of tickets was found to constitute a lottery. As the Act had not provided for same, it was deemed unlawful.

The issue which requires to be addressed when drafting either primary legislation or regulations is to ensure that such definitions (if required at all in the legal context) do not prejudice the enforcement of the law, thus hindering the effective control and regulation of the sector.

4.2 Local authority powers

All lawful gaming in this country is at present confined to areas in respect of which Part III of the Act is in force following a resolution passed by the relevant local authority. The number of such areas (which may constitute one part of a local authority area) in November 1999 numbered 42, from a total of 114 (see Appendix 5).

The term local authority for the purpose of the Act includes County Councils, County Borough Corporations, Urban District Councils, Borough Corporations and Town Commissioners.

The Act, therefore, gives a role to local authorities in relation to the legality of gaming and enables them to make choices for the people they represent. It does not specify whether the exercise by the local authorities of these powers is to have regard to:

- the wider issue of the morality of gaming;
- the suitability of the local authority area or parts thereof for the carrying on of gaming;
- a combination of both of the above.

Local authorities perform many regulatory roles, including those relating to planning control, building control, and certain aspects of environmental protection. It is arguable that their role in relation to the allowing or prohibition of gaming does not sit easily with their lack of involvement in comparable activities including other forms of gambling, or for example, the sale of alcohol. These powers are, therefore, somewhat unusual in terms of the functions normally entrusted by legislation to local authorities in this country, although there are some broad parallels with the UK where, for example, some functions in relation to the licensing of sex shops and certain types of clubs are entrusted to local authorities. In recommending a future role in this area for local authorities, the Group took into account:

- the general representative role of local authorities, given further endorsement recently by a constitutional amendment;
- the Government’s intentions to renew the local government system and to devolve additional powers to it;
- representations made to the Group concerning inconsistencies in relation to the exercise of these powers by local authorities;
- the risk of significant proliferation of gaming if the powers were removed from local authorities;
- equity issues relating to due process in the exercise of these powers - it was represented to the Review Group that the existing situation where a proprietor of a gaming arcade can be put out of business almost overnight was manifestly unfair.

The Group took the view that the current situation has the potential to throw up inconsistencies in respect of the exercise of these pow-

4. The Principal Issues

ers, giving rise, on occasions, to extremely controversial local issues. The Group noted a number of instances where the tabling of rescinding motions became highly emotive and personalised issues. Participation in activities such as gambling is normally regarded as a matter of personal choice and there is an argument that, subject to proper regulation and control, it is inappropriate that local authorities should possess an effective veto on one of many types of gambling which are perfectly legal within the State.

The basic issue to be considered is the nature of the role, if any, which local authorities should play in the control and regulation of gaming in Ireland.

4.3 Gaming in arcades, amusement halls, carnivals and funfairs

Gaming is permitted on premises licensed by the Revenue Commissioners for this purpose in accordance with the conditions laid down in the Act. A certificate is required from the District Court in order to apply to the Revenue Commissioners for the licence.

Many of these premises are located in what can be described as “seaside” or holiday areas and some would traditionally open only on a seasonal basis. Gaming in the limited forms allowed by the Act is also permitted in conjunction with circuses, travelling shows, carnivals and other similar events for a limited period in particular locations each year.

In 1998 a total of 166 licences were in force in respect of gaming premises, although a number of these were in respect of periods of 3, 6 or 9 months. The number of licences issued in each year since 1957 varied greatly, with the lowest number, 43, issued in 1969 and the highest, 491, in 1985. The number of gaming machine licences issued by the Revenue Commissioners, however, has increased steadily to a figure of 10,530 in 1998. Given the shrinkage in real terms in the value of the stakes and prizes permissible, the growth in the number of machines at first glance requires some explanation. In the circumstances, it was not surprising that a number of those involved in the business who made submissions to the Review Group confirmed that in practice the statutory limits were not generally observed by some operators. It is apparent therefore, that gaming machines are being operated in licensed and unlicensed

premises with the stakes and prizes available well in excess of the statutory limits.

In County Dublin, gaming machines have been the subject of much debate and are now prohibited throughout the city and county (except in parts of Skerries and Balbriggan) following the rescindment of Part III of the Act by the Corporation and County Council in 1986 and 1989 respectively. The Review Group is, however, aware of reports of alleged illegal gaming in some premises in Dublin City centre, possibly operated in conjunction with token or credit systems. If gaming, in any form, is being conducted in such locations it is in breach of the law.

This raises two aspects of the issue of enforcement and control. The first relates to illegal gaming per se, and the second focuses on difficulties with the enforcement of the stake and prize limits.

4.4 Amusement/video machines

The 1956 Act requires that amusement halls provide forms of entertainment other than gaming. The original intention may have been to “dilute” the perceived social dangers of gaming machines. The Group felt, however, that this arrangement merited reconsideration. In many cases these other forms of entertainment take the form of video amusement machines and there is some anecdotal evidence of addictive behaviour in connection with such machines. While the use of these machines may lie outside the remit of this review, their operation in conjunction with gaming machines is a factor which was discussed by the Group. Amusement-only, including video machines, are currently available to children of all ages without restriction, and their siting may therefore have a bearing on the potential exposure to gaming machines for children, even if the gaming machines are located in a “separate area” of the same premises. In addition the “draw” factor must be considered, inasmuch as exposure to one type of potentially addictive activity may directly or indirectly lead to exposure to another.

Thus, the question of the relationship between the siting and location arrangements for video/amusement as opposed to gaming machines arises as an issue relevant to this review.

4. The Principal Issues

4.5 Gaming in licensed premises

Under section 9 of the Act, gaming is prohibited in all licensed premises. The Review Group is, however, aware of reports of the availability of “Poker” and other forms of machines using credit or token systems, sometimes covertly, in some such premises throughout the country. The intention is, presumably, to frustrate prosecutions under the Act. Clubs which are licensed to sell alcohol in accordance with the Registration of Clubs (Ir) Act 1904 are not regarded as licensed premises for the purpose of the 1956 Act, and accordingly, require a gaming licence in order to provide gaming machines for their members.

The basic issue, whatever the type of gaming involved, is whether gaming opportunities should be made available in premises in which alcohol is available for sale to persons of 18 years or over.

4.6 Gaming in bookmakers’ offices

None of the submissions received in the context of the review referred to the siting of gaming machines in bookmakers’ premises. The Review Group noted that, in recent years, the restrictions governing bookmakers’ premises have been eased somewhat. The showing of live racing is now permitted and opening hours have been extended. It noted also that in the UK a limited number of gaming machines are now permitted in bookmakers premises.

The issue to be considered, therefore, is the appropriateness of siting gaming machines in bookmakers’ premises and the desirability of exposing those already engaged in what is the most popular form of gambling in the country to further opportunities through gaming machines.

4.7 Casinos

A number of submissions received by the Review Group related to the question of casinos. It was pointed out that in some foreign jurisdictions, casinos were operated and owned by the State. The case was also made that stringent regulatory machinery, allied to a balanced taxation/profit arrangement, could serve a particular demand in the recreational/gambling market in this country without adversely affecting or distorting other established forms of gambling and their associated industries. The case was made that money laundering, vice and other forms of criminality sometimes asso-

ciated with casinos were not factors in properly regulated modern casino environments. Furthermore, a feasible model for a viable casino in Ireland was one which targeted the tourist business and the mature affluent adult.

On the other hand, some submissions argued that casinos and related developments were extremely detrimental in terms of encouraging a wide range of criminal-related activities, including prostitution and money laundering. Casinos, it was argued, had a general anti-social impact. Increased demands on police resources, a drop in property values in the vicinity of casinos and difficulties in enforcing age limits were also cited in opposition. Other objections to casinos included those based on the adverse economic effect which they might have on the more traditional gambling-based industries in Ireland.

No specific reference was made in the Group’s Terms of Reference to the question of casinos. In view of the Government’s position following the special report of the Task Force on casinos, other than reflecting the fact that a case can be made for and against, the Group felt that this issue had already been settled and the recommendation at paragraph 7.9 reflects this view.

4.8 Gaming machine stake and prize limits

Stake and prize levels significantly determine the nature and level of gaming and they figured prominently in submissions relating to gaming. Submissions received suggested a wide range of increases. The Review Group noted that higher prizes create a greater incentive to gamble. The Review Group does, however, acknowledge that the existing stake and prize levels are not realistic and may have had the effect of encouraging non-compliance, by whatever circuitous means, as the law has, in effect, been rendered obsolete in the eyes of those with a vested economic interest.

The issue to be considered by the Review Group in this context, therefore, is to determine an appropriate level of stakes and prizes for gaming machines in order to achieve a balance between the demands from the industry for a reasonable business environment on the one hand, and the necessity to address various social policy considerations on the other.

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4.9 The social implications of gaming machines

High-stake gaming machines

Gaming machines with high payouts, also known as “Jackpot” machines, are regarded as a form of “hard” gambling. There are a number of reasons for this. High prizes, in whatever form of gambling, provide the greatest inducement to speculate - this is evidenced in the National Lottery Lotto sales when a number of roll-overs occur. Also, there is a much greater event-frequency with slot machines. A player can gamble on literally hundreds of events per hour, as opposed to lotteries or horse races where the opportunities to gamble are finite and restricted to the number of events per day/week. High-stake machines are, of course, illegal in Ireland due to the limits in force under the 1956 Act.

Gaming machines constitute one of the most lucrative sectors of the gambling market. Most casinos rely on gaming machines, including some high-stakes machines, for a large percentage of their profits, as do the larger bingo halls in the UK. It follows that the potential for individual losses from these machines can be substantial. It is, therefore, reasonable to conclude that these forms of machines pose a greater threat to potential problem gamblers than those with more modest prize levels.

The issue which arises here is whether, in view of the potential serious downside attaching to such machines, provision should be made for their availability.

Gaming machines and young persons

There is convincing evidence that the exposure of young persons to slot machine gambling, however it arises, is potentially damaging, and there have been a number of interesting UK studies on this subject. The law in the UK currently contains no restrictions on age in respect of certain types of gaming machines with moderate prize limits. These are widely available in a range of locations, including arcades where higher payout machines may also be available. Segregation of the different classes of machine is required by law, but is not always fully effective in preventing access by underage persons. The UK, therefore, provides a useful model for gauging the effects of exposure to slot machines on children.

A 1993 study⁸ carried out on 460 schoolchildren in a small seaside town in the South West of England found that 62% of secondary schoolchildren between the ages of 11 and 16 gambled on fruit machines. It also found that addictive behaviour was far from typical among children but that it was not unknown. Machine playing did, however, create school problems for children and relationship difficulties with family and friends. The same study estimated that “children and young people now account for about one in four of all new members of UK Gamblers Anonymous”.

A 1996 survey⁹ carried out in the Plymouth area in England found that 4% of juvenile crime was associated with gaming machine use although the cause and effect relationship was not clear. These and other problems are, of course, exacerbated in locations such as seaside towns where the traditional arcades are a permanent feature. According to a 1991 study,¹⁰ children who reside permanently in the above areas “are uniquely vulnerable to the potential problems associated with amusement machine playing”.

Another aspect of concern which arises in the context of exposing young persons to slot machines is that of familiarisation at an early formative age. As with other forms of potentially risky activities, such as smoking, children’s use of slot machines for recreation may, in some cases, have the effect of establishing a preference for gambling on machines later during adulthood.

Notwithstanding the above, many of the objections to gaming machines to date, both here and elsewhere, have centred on the potential anti-social aspects of gaming premises and associated negative connotations rather than on the core activity itself.

The issue here is to determine the necessary protections which should be incorporated into any new regulatory framework to address the potential risks to young persons arising from exposure to gaming machines.

4.10 The social dimension of bingo and gaming

There is an identifiable social dimension to bingo and gaming machine use for adults, for whom participation is a matter of personal choice. For example, bingo clubs in the UK, many of which are now furnished and

8. Fisher, S. (1993) Gambling and Pathological Gambling in Adolescents, *Journal of Gambling Studies* Vol. 9(3) p277

9. Yeoman, T. and Griffiths, M. (1996) “Adolescent Machine Gambling and Crime”, *Journal of Adolescence*, 19, pp183 - 188.

10. Fisher, S. (1991), Governmental Response to Juvenile Fruit Machine Gambling in the UK, *Journal of Gambling Studies* Vol. 7(3), p245.

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equipped to a high standard (in comparison to the typical amusement arcade), offer gaming and bingo with an active social dimension. These clubs fulfil a limited but significant social role in some communities and are tightly regulated with membership and age requirements. According to Munting,¹¹ “The major [bingo] operators set out to try to make the game more of a family attraction” and “it is the activity itself which provides a form of utility to the players as much as the real or imagined financial returns”. Bingo has also been very popular in Ireland, although the typical surroundings in most bingo halls, in contrast to the UK where commercial bingo (run for private gain) is permitted, remain in general somewhat spartan. The social element, however, remains strong and reflects experience in the UK gaming arcades, but to a much lesser extent, likewise provide for some social interaction, but this is probably much more the case at the seaside venues.

The issue which falls to be considered in this context is what weight should be attached to this social dimension when considering what should constitute an appropriate modern regulatory environment for gaming and lottery activities.

4.11 Summary - The social downside of gaming machines

Gaming, whether by the use of machines or otherwise, is a form of gambling. There are, of course, several other forms of gambling which are readily accessible throughout the country. Many bookmakers’ offices now offer a wide range of gambling options. The availability of scratch-cards and Lotto from the National Lottery at retail outlets in every part of the country has also greatly increased exposure to gambling opportunities - albeit at the “soft” end of the spectrum. In addition, betting on horses or dogs and other sporting events, (where no limits on stakes may apply), may now be conducted with ease from the home via the telephone and the Internet.

Against this background, a few points are worth mentioning. Regarding the overall merits or demerits of gaming machines, those who are exposed to such machines (especially high-stakes machines) are, albeit in a small minority of cases, vulnerable to pathological or compulsive gambling. Submissions received from proprietors of gaming arcades indicate that they do

not welcome problem gamblers for various reasons. Apart from concern for the welfare of the persons concerned, these reservations include the fact that problem gamblers foster a negative image of the industry. From the gaming proprietor’s point of view, the ideal client is one who gambles regularly within his or her means, guaranteeing a consistent and regular income for the operators.

Gaming in amusement halls and arcades, particularly in urban areas, has always tended to attract a certain amount of negative comment. The greatest risks, however, would appear to arise (i) in situations where young persons are exposed to gaming and gaming machines and (ii) where persons vulnerable to problem-gambling have unrestricted access to high-stakes gaming machines.

The issue which arises is how these potential problems should be addressed.

4.12 Private lotteries (s. 23)

It came to the attention of the Group that some promotions purporting to be “private” lotteries, many of which offer very substantial prizes, may not comply with the requirements of the Act. The requirement for a lawful lottery that “the sale of chances is confined to the members of one society established ... for purposes not connected with gaming” is unlikely to be met when the numbers of tickets sold for a particular event far exceeds the actual membership of the club or society in question. Draws for property, ostensibly operated as private members’ lotteries, a number of which were promoted in the 1970s and 1980s when the property market was less than buoyant, also fell outside the terms of the Act. In one high profile instance, a successful prosecution resulted.

The issue which arises therefore, is whether this “Private” category of lottery as set out in s. 23 should be retained.

4.13 Lotteries at dances and concerts (s. 24) and at carnivals and other events (s. 25)

These promotions do not require any licence or permit and the Group was not aware of any particular difficulties arising at present. Lotteries under s. 24 are limited to a maximum prize of £25 while those held in conjunction with gaming at arcades, carnivals or travelling shows, etc. under s. 25 are, however, bound by

11. Munting, R. (1996), *An economic and social history of gambling in Britain and the USA*, Manchester University Press, pp164 - 168

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the very low limits on stakes and prizes which attach to gaming.

The issue here is to decide on the need to continue to provide for these classes of lottery and if so, the level of regulation and control which should apply.

4.14 Occasional lotteries (s. 27)

A large number of occasional lotteries are promoted throughout the country by smaller charities, clubs and societies under a Garda Superintendent's permit. The prize limit is £3,000 per permit and only one permit is allowed in each six-month period. There are no significant problems apparent with this class of lottery at present which seems to cater for most moderate voluntary fundraising activities.

The continued Garda involvement in issuing permits for such lotteries arises as the main issue here.

4.15 Periodical lotteries (s. 28)

Most of the major charity organisations engaged in fundraising through larger lotteries depend on licences granted by the Courts for these promotions, the maximum permitted prize fund for which is £10,000 per week. This is the largest form of lottery open to charities and other philanthropic interests at present. In the year ending July 1998, a total of 1,636 such licences were granted by the District Courts. These include traditional lotteries, lotteries which rely on the sale of scratch cards and bingo where the prize level is over £3,000 (it should be noted that bingo is a form of lottery). The Act places a limit of 40% on the amount of the proceeds which may be used in the promotion of these lotteries. It is now the case that many of the larger operators use professional sellers, commission or other agents to promote, sell tickets or in some instances, actually operate the lottery or bingo sessions.

There have been regular calls for the removal of the "cap" on the prize level for this form of lottery and as outlined earlier in this report, the original limit of £500 was increased to £10,000 in 1987 on the introduction of the National Lottery. The total removal of the "cap" would, if implemented, have the potential to bring operators of such lotteries into direct competition with the National Lottery. It must also be borne in mind that a number of the larger charitable fundraisers are benefiting,

albeit indirectly, from the National Lottery via the Charitable Lotteries Fund (see paragraph 3.19 and Appendix 8).

The issue to be considered, therefore, in respect of this category of lottery is whether the removal of the "cap" could be justified having regard to the above, including the position and role played by the National Lottery, or whether an adjustment in the maximum permitted prize level, short of outright removal of the cap, is appropriate at this time.

4.16 Sales, marketing or promotional lotteries

Competitions for prizes, in some cases quite substantial prizes, have been a long-established means of promoting or assisting with sales and marketing of commercial products or enterprises. Many of these schemes sought to avoid being treated as lotteries by the inclusion of some element of "skill" in the procedure, the overall objective being to get as near to being a lottery without actually being a lottery and thus attracting the strictures of the legislation. While the main objective in most cases is the promotion of a commercial product, rather than direct fundraising by means of the lottery component, these schemes have, in some cases, been found by the courts to constitute lotteries in the legal sense.

The issue, therefore, is one of reviewing this use of a lottery and deciding the status of such promotions/lotteries within any new legislation.

4.17 Lottery regulations

The 1956 Act provides for the making of regulations by the Garda Commissioner in relation to lotteries. There are two sets of regulations in force at present. The Periodical Lottery Regulations [S.I. No 212 of 1961] require the promoters of the larger lotteries held under licence (s. 28) to maintain and/or report certain detailed information in respect of each such lottery. For example, details such as the names and addresses of all prize-winners, particulars of the prizes won and the serial numbers of the tickets concerned must be furnished to the relevant Garda Superintendent within seven days of the lottery. Requirements in respect of a series of lotteries operated under licence include notification of amounts spent on commission, lighting and heating, rent and rates etc.. The Periodical Lotteries Regulations [S.I.

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No 32 of 1966] amended the above regulations in respect of bingo, which had been found by the Supreme Court in 1965 to be a form of lottery.

These requirements have been found by operators to be particularly onerous and it would appear that they are no longer observed in practice. There are no similar requirements on the promoters of occasional lotteries operated under a permit issued by a Garda Superintendent, the maximum permitted prize fund for which is £3,000.

The issue to be addressed here is to establish the most effective means of achieving the degree of control and monitoring required to properly address any concerns which may arise regarding the bona fides of lotteries generally and their compliance with the law.

4.18 Charitable fundraisers legislation

The Department of Justice, Equality and Law Reform is currently preparing proposals for legislation to bring about an appropriate regulatory framework for charitable bodies which will reflect the report and recommendations of the Committee on Fundraising Activities for Charitable Purposes and the Advisory Group on Charities/Fundraising Legislation. Publication of the Bill is not expected before late 2000.

An important issue in this context will be to ensure, insofar as is possible, that the specific proposals being brought forward by the present review which have a bearing on the operation of charitable fundraisers are compatible with the general thrust of the Costello and Advisory Group's recommendations.

4.19 Lotteries and “problem gambling”

While lotteries, may lie at the “soft” end of the spectrum, they are, nevertheless, a form of gambling, and there is some evidence of addictive activity in the area of scratch-cards. In the UK a recent survey¹² of over 9,500 12 to 15 year-olds questioned about the purchase of (UK) National Lottery scratch cards confirmed the existence of a small proportion (1.7%) of problem gamblers in that age group. It also found that 7% of 12 to 15 year olds had illegally purchased scratch cards in the week prior to the survey. It should be noted in this context that the minimum age for the purchase of National Lottery tickets in the UK is 16 years as opposed to 18 in Ireland. The Irish National

Lottery closely monitors the compliance of its agents with the legal age-limits for sales of lottery products. While the National Lottery is outside the scope of this review, it should be borne in mind that other similar or comparable products are readily available from sources which operate lotteries under the 1956 Act. While the evidence above may focus on problem gambling with scratch cards among youth and children, it follows, of course, that there is also a potential risk for adults.

The issue would appear to be the need for effective controls on the availability and promotion of lottery scratch cards and related products.

4.20 Regulation and enforcement

Primary responsibility for the regulation and enforcement of the 1956 Act currently lies with an Garda Síochána and to the extent that excise duty is involved, indirectly with the Revenue Commissioners. The Revenue Commissioners under the Finance Acts of 1975 and 1992 may institute prosecutions for offences, including the operation of gaming machines in licensed premises and the operation of unlicensed gaming machines.

Some difficulties have arisen regarding the enforcement of the provisions in relation to gaming. These include problems with obtaining the necessary evidence, and the requirement as confirmed by the Supreme Court in DPP V McMahon¹³ to obtain a search warrant, which can only be procured and executed by an officer of Inspector rank or higher. Difficulties with proof can also arise in cases where tokens or credits are employed in lieu of direct payout to the players of these machines. Apart from the obvious legal difficulties which obtain in respect of the existing legislation, the question of the appropriateness of the regulation and enforcement function continuing to rest with the Garda Síochána arises. The Review Group noted the recommendation contained in a recent report on the efficiency and effectiveness of the Garda Síochána¹⁴ that functions in relation to gaming and other licences should be “carried out by another agency”. While the Gardai do not actually issue gaming licences (as opposed to lottery permits), the implication is that this is a general area in which the Gardai should not be directly involved on an ongoing operational basis.

12. U-16s and the National Lottery, Ashworth and Doyle, BRMB Social Research Division, February 2000.

13. DPP v. McMahon, Supreme Court, 20 June 1986. [1986] I.R.393.

14. Report of the Steering Group on the Efficiency and Effectiveness of the Garda Síochána, Government Publications, Dublin, June 1997, p68.

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The issue here is to decide the most appropriate mechanism for controlling and regulating gaming and lotteries and for enforcing the relevant legislation.

The issue which arises here is the appropriate revenue/taxation regime deemed necessary for the various aspects of gaming activities.

4.21 Age restrictions

Gambling, as with other forms of potentially addictive activities, is subject to age restrictions. The age limit for the purchase of National Lottery tickets is 18. This also applies to betting with bookmakers either in betting shops or on-course. Licensed gaming premises, however, are restricted to persons of 16 years or over. The 1929 Totalisator Act, which governs betting on the tote at racecourses and greyhound tracks places no restriction at all on the age of bettors. We thus have considerable variation in the age controls for the various forms of gambling permitted at present.

It is interesting to note that the report of the US National Gambling Impact Study Commission¹⁵ in 1999 recommended that all legal gambling in that country should be restricted to those who are over 21 years of age.

There are clear issues here regarding the approach to age restrictions on gambling activities, and the issue to be addressed is the appropriate age for the various activities which fall within the terms of reference of this review.

4.22 Revenue and taxation

Gaming premises licences, once approved by the District Court, are issued by the Revenue Commissioners at a cost of £500 for a full year and lesser amounts for periods of three months and upwards. Gaming machine licences attract an excise duty of £400 for a full year and £100 upwards for lesser periods. Week-end rates are also available. The total income in excise duty on premises and machines in 1998 was £52,500 and £1,190,000 respectively. VAT is payable where the total turnover of the business exceeds £20,000 per annum. In 1998, the number of gaming licences issued by the Revenue Commissioners was 166. VAT is charged on the “net take” rather than on the total amount wagered on the machines. It is not possible to accurately quantify the VAT take from gaming, because in addition to gaming activities, most holders of such licences carry on other VAT activities, as they are required to in accordance with the Act. In addition, licence holders are liable to income tax/corporation tax on their profits from gaming.

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5. International Dimension

5.1 The United Kingdom - regulation and control

The current regulatory environment in the UK is based around three Acts: the Betting, Gaming and Lotteries Act of 1963; the 1968 Gaming Act and; the Lotteries and Amusement Act of 1976. It was the 1968 Act which provided for the establishment of the Gaming Board for Great Britain, which is the regulatory authority for casinos, bingo, gaming machines and the larger society and local authority lotteries, (other than the National Lottery) in Great Britain (excluding Northern Ireland).

The overall trend in recent years has been to deregulate, which in effect has meant a gradual easing of the various restrictions and controls governing lotteries and gaming. The number of gaming machines permitted in particular locations has been increased, the limits on stakes and prizes raised and some of the strict controls on the operation of casinos moderated somewhat. The Gaming Board carries out a review of the levels of gaming machine stakes and prizes on a triennial basis and adjustments, where approved, are implemented by Order, subject only to negative resolution by Parliament. This may be contrasted with the Irish 1956 Act, where the limits for gaming are enshrined in the primary legislation with no provision for adjustment outside amending legislation.

Casinos

There were in March 1999 a total of 119 casinos in operation in England, Scotland and Wales with about 11,600 employees, 60% of whom were directly involved in the provision of gaming, with the balance engaged in ancillary services such as bar, restaurant and security. It was estimated that there were about 11.4 million visits to casinos in the UK in 1998/99. Regulation of casinos is a function of the Gaming Board, whose responsibilities include advising the licensing authorities on applications for new casino licences, monitoring the operation of casinos generally and considering applications for certificates of approval for casino (and bingo) industry employees.

Gaming machines

Gaming machines are permitted, subject to limits on stakes and prizes, in a variety of locations, including casinos. The highest-prize gaming machines, known as “Jackpot” machines range in maximum prizes as follows: £1,000 (casinos); £500 (bingo clubs); £250 (members

clubs). Lower levels apply in other locations: £15 (licensed premises, bookmakers’ offices, adult arcades etc.); £8 (amusement part-cash machines, which can be located in family arcades, cafes, and other public areas). Except for the latter, all of the above are limited to persons over 18 years. It is understood, however, that the siting arrangements for the £15 machines may not always be effective in preventing access by children. The estimated turnover of the gaming machine market in Great Britain in 1998/9 was £7.8bn., with £6.3bn. paid out in prizes, leaving £1.5bn. retained by the operators. The number of gaming machines was estimated in the same period at 250,000 and there were about 25,000 persons employed in the industry. Seaside locations accounted for 42% of the machines, 23% were located in pubs and 10% in clubs and casinos. The remainder were located in bingo halls, betting shops, inland amusement arcades and various other locations.

Bingo and lotteries

Commercial bingo (run for private gain) is legal in the UK. In 1998/99, 750 bingo clubs were operating throughout England, Scotland and Wales. The trend in recent years has been towards consolidation. Of the clubs licensed in 1999, 35% were owned by two large operators. The “National Game”, played with a large number of clubs linked electronically, is permitted a maximum prize limit of £500,000. In 1998/98 over £1bn was staked in licensed bingo clubs. All larger society and local authority lotteries in Great Britain must be registered with the Gaming Board. The maximum ticket price in such lotteries is £1, the maximum proceeds £1,000,000 and the maximum prize £100,000. The number of such lotteries registered with the Gaming Board in the year ending March 1999 was in excess of 27,000 and ticket sales totalled over £161bn.

The Gaming Board for Great Britain

The members of the Gaming Board are appointed by the Home Secretary. Its purposes and functions are threefold and can be summarised as follows:

- to ensure that those persons involved in promoting gaming and lotteries are fit and proper to do so and to thus prevent criminal infiltration;
- to ensure that gaming and lotteries are conducted in accordance with the law;

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- to advise the Secretary of State on developments in order that the law can respond to change.

The Board, whose headquarters is in London, has approximately 70 staff, including some civil servants on secondment from the Home Office. The cost of operations in 1998/99 was £3.6mn, but this amount was recouped in fees, registrations and other charges. The Board's Inspectorate is organised on a regional basis and covers England, Scotland and Wales. The gross yield of gambling activity under the control of the Gaming Board in 1998 was £2.5bn, about one third of all gambling activity.

UK review of gambling legislation

In December 1999, the Home Secretary announced a major review of gambling legislation in the UK. The review, which is to be wide-ranging, will be conducted by an independent review body and will be asked to produce a new regulatory structure for the gambling industry. Reasons for the establishment of the review (which will not encompass the UK National Lottery) include the fact that the existing legislation is more than 30 years old, changes in social attitudes and technological developments, and the need to "get rid of unnecessary burdens on business, while maintaining protections necessary in the public interest".

5.2 Northern Ireland

Gaming

The legislation on gaming and lotteries in Northern Ireland is contained in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 as amended, and related Regulations and Orders. The Social Legislation Branch of the Department for Social Development is responsible for policy and legislation. The Gaming Board for Great Britain does not have any role. There are no provisions which permit the operation of casinos in Northern Ireland. The regime governing gaming machines is broadly similar to that in England, Scotland and Wales with two types of machines permitted, and maximum prizes of £8 in value and £250 in cash. The latter is restricted to registered private members' clubs. Amusement-with-prizes machines, also known as AWP's (machines which purport to combine entertainment or tests of skill with gambling), with a prize limit of £8 in value may be located in amusement arcades, commercial bingo clubs and travelling showmen's

pleasure fairs consisting wholly or mainly of amusements. AWP's with a prize limit of £15 (which must all be in cash) may be installed in the bar areas only in pubs and licensed hotels. Gaming machines may also be used as an incidental attraction at fundraising social events such as fetes, dinners etc (provided they are not run for private gain). In these circumstances there are no limits on the number of machines, stakes or prizes. There are no age restrictions in force in respect of gaming machines.

Lotteries

Three categories of lottery are permitted:

- small lotteries promoted in conjunction with a social event such as a bazaar, dinner, fete etc.;
- private lotteries which are confined to persons all of whom either work or live together on the same premises or members (and guests on the premises) of a society or club not established for purposes connected with gambling or lotteries;
There are no licensing requirements or limits on prizes for either of the above.

and

- society lotteries which must be promoted on behalf of charitable or other philanthropic purposes connected with the society in question, and tickets may be sold to the public at large. The maximum prize permitted is £25,000 (subject to a 50% limit on the amount of a lottery's proceeds used for prizes) and the price of tickets may not exceed £1. There are various reporting and accounting obligations on the promoters. Finally, society lotteries must be promoted within Northern Ireland. It is illegal to sell tickets in Northern Ireland for lotteries based in other parts of the UK (except the National Lottery) or abroad.

Bingo

Commercial bingo operated under a licence from the courts is permitted in Northern Ireland under certain conditions. Participation is limited to members of licensed bingo clubs (or bona fide guests of such members) of 18 years or over. Prizes are limited, depending on the amounts staked, but may not be increased by the promoter beyond a certain level. There are restrictions on the amount that may be charged to participate. "Linked" bingo is permitted subject to the total prize fund in any one week not exceeding £30,000. Various forms of non-commercial bingo for charitable or small-

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scale fundraising purposes are also permitted, subject to appropriate controls.

5.3 Europe

State lotteries are now established in all EU States as well as most other European countries. The UK was the last EU State to launch a national lottery in 1994. Casinos are established in almost all European countries. Switzerland, one of the last remaining countries without casino gambling, has announced its intention to issue a number of licences in 2000. The countries with the largest numbers of casinos are the UK and France.

Betting on horse racing is most popular in the UK, France, Germany, Belgium, Italy and Ireland. In 1989 it was estimated to comprise the second largest market segment within the European Union gambling market.

The legalisation of gaming machines is a relatively recent phenomenon in most European countries and there are wide variations in the controls currently in place governing their use. In Spain, casino gaming and bingo, which were introduced in 1977, along with slot machines, introduced in 1981, proved enormously popular. By 1986, Spain had 20 casinos, 1,100 bingo halls and over 500,000 slot machines. Gambling, in particular on gaming machines, which by the early 1990s accounted for over 40% of the total Spanish betting/gambling market, had begun to cause concern. Controls on gaming machines which now apply in Spain include a minimum time per play, an age limit of 18, and restrictions on sound displays. Elsewhere, France has Video Lottery Terminals in bars and restricts gaming machines to casinos only. Portugal also restricts gaming machines to casinos. In Italy and Greece the machines must be skill-based. An age limit of 18 is in force in the majority of countries. In general, some countries have quite restrictive regimes in force while others tend to be more liberal. Overall, there is no apparent trend towards a uniform approach.

5.4 The United States

It is only during the last 25 years or so that the US has been transformed from a nation in which legal gambling was very much the exception and something of a rare phenomenon, into one where gambling is common and growing. All States, except Utah and Hawaii, have some form of legal gambling.

Pari Mutuel, also known as Totalisator or “pool” betting on horse racing, greyhound racing and Jai Alai (a ball game played in a court) is legal in over 40 states. State lotteries have grown from just 2 in 1973 to 37 in 1997. A factor in the spread of state lotteries has, seemingly, been the trend for inter-state participation, inducing neighbouring states to establish lotteries in order to keep the gambling revenue at home. There has, in addition, been significant diversification, with many variations on the traditional draw-type lottery games now available. The availability of E.G.D.s (Electronic Gambling Devices), a term which includes the traditional slot machine, has also increased sharply, with widespread availability in some states. In Nevada, slot-machines may be found in supermarkets, airports and bars. Casinos, which in 1989 were legal in just two states, are now established in 33. These include Riverboat casinos which were first introduced in Iowa in 1991, as well as casinos located in Indian reservations. Casinos are, in some locations, regarded as important in economic terms, with large numbers employed in what are labour-intensive operations, often associated with hotel or leisure complexes. The establishment of Riverboat casinos in the depressed Tunica area of Mississippi in 1992 “brought 3,500 new jobs within a year and a reduction in welfare dependency”.¹⁶

Sports betting (including forms of handicap and spread-betting, where the player estimates winning or losing margins, the number of goals scored etc.), although extremely popular, is illegal in all states except Nevada. Due to the clandestine nature of the activity its extent is difficult to quantify, but estimates of turnover range from \$80bn to \$380bn annually, which would make it the most popular form of wagering in the US. Sports betting is usually conducted through illegal “books” and is also available on the Internet. Particular concerns regarding betting on amateur (including college) events, focus on the dangers of student athletes being placed in vulnerable positions through betting losses.

A major recent development in the US was the publication in June 1999 of the report of the N.G.I.S. Commission.¹⁷ The Commission, which included representatives of the gambling industry as well as interests opposed to gambling, conducted a comprehensive study of the social and economic implications of gambling in the US.

16. Munting, R., *An economic and social history of gambling in Britain and the USA*, Manchester University Press, (1996), p215.

17. National Gambling Impact Study Commission, *Final Report*, United States Congress, June 1999.

5. International Dimension

Among the many recommendations included in the Commission's report were:

- the raising of the age limit for all gambling to 21 years;
- a prohibition on all gambling on amateur events;
- a ban on aggressive advertising strategies (especially those which target the impoverished or youth);
- a comprehensive programme of research into gambling;
- prior to the introduction of new or expanded gambling operations, jurisdictions should commission Gambling Impact Statements which "should encompass insofar as is possible the economic, social and regional effects of the proposed action".

5.5 Cross-border gaming and lotteries

Neither the Treaty of Rome nor the agreements upon which the Single Market is based contain any reference to gambling or betting. In Europe, the practice among Governments has been to adopt the tacit principle of reciprocal restriction of state and other gambling enterprises to within the jurisdiction of origin in the national interest. Reasons for this may be twofold: to protect the financial integrity of the often state-owned gambling or lottery enterprises and; for reasons of social policy, to shield the population from over-stimulated, undesirable or dangerous gambling activity. This approach applies throughout the EU countries, all of whom promote state lotteries. It might be noted that the provisions of the 1956 Act which prohibit the promotion of or participation in foreign lotteries was challenged by the EU in an infringement proceeding in 1998 to which the Irish Government responded.

National restrictions throughout EU countries have been supported in a number of cases determined by the European Court in recent years. These include the Schindler and Läärä cases (see Appendix 12). In the Schindler case, the Court held that restrictions in the UK on the freedom to supply lottery services from abroad were justified "in view of the concerns of social policy and the prevention of fraud". In the Läärä case which was decided in September 1999, the Court ruled that "the community provisions relating to freedom to provide services do not preclude national legislation which grants to a single public body exclusive rights to operate slot machines in view of the public interest objectives which justify it". In respect of

gambling and related enterprises therefore, as opposed to other forms of economic activity, the right of Governments to impose what effectively amount to national monopolies in the national interest has, to date, been upheld.

5.6 The Internet

The other international constituent which has impacted on gambling is the Internet. Those with an interest in providing gambling services, lawfully or otherwise, have not been slow to exploit the potential of this new means of service provision. Industry sources in early 2000 estimated the number of on-line casinos at around 1,200 and growing.

The US approach is interesting and reflects the regulation challenges posed by the new medium. In locations such as Antigua, local administrations are prepared to licence gambling web-sites aimed largely but not exclusively at the US. The Kyl Bill, a measure which makes it a crime to operate sports betting or gambling sites on the Internet, was passed by the US Senate in November 1999 and will be before the House of Representatives during 2000. Gambling in the US has traditionally been controlled on a state-by-state basis and state gaming laws vary greatly. It is felt, however, that federal control of Internet gambling is required because of the threat posed to state regulation by the particular nature of the medium. The type of gambling involved is unrestricted, carried out, often from home, on a wide range of activities, often sports related events (which are extremely popular in the US). Children, and indeed adults, using credit cards are seen as particularly vulnerable. The lack of security for the gambler in terms of guaranteed payment of winnings does not appear to constitute a serious deterrent to prospective players.

The Internet poses a major challenge to the traditional state law enforcement and regulatory machinery, and gambling on the Internet is no exception. A small number of European countries permit various forms of Internet gambling. Sweden, for example, has issued licences permitting Internet betting on horseracing. There has, however, been relatively little overall progress to date in grasping the legislative nettle at national level.

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6. Submissions

6.1 Submissions received

An advertisement seeking submissions was placed in the national press on 3 June 1999 (see Appendix 3). A number of groups and individuals with a specific interest in the area were also advised of the review and invited to make submissions.

On foot of the above, over 70 written submissions were received. Those who made submissions included persons involved in the gaming and amusement industry, trade associations, suppliers of gaming and lottery equipment and services, charitable organisations, local authorities and elected representatives. Submissions were also received from members of the public as well as from interests both opposed to and in favour of casinos and gambling generally. Some of those who made written submissions requested an opportunity to make an oral submission to the Review Group. All such requests were facilitated.

A full list of those who made submissions is at Appendix 4.

6.2 Gaming-related submissions

All the submissions received from interests connected with the gaming and amusement industries were supportive of the review process. In terms of specific requirements, a number of issues dominated the submissions. There was a general demand for a review of the prize and stake limits for gaming, as well as widespread dissatisfaction with the local authority powers under the Act in respect of gaming. A number of submissions suggested the establishment of a regulatory body, similar to the Gaming Board for Great Britain, with responsibility for gaming and lottery activities. Some anti-gaming interests made detailed submissions stressing the detrimental effects of gaming and gambling generally (including, in some cases, casinos) on the community and on the vulnerable.

6.3 Lottery-related submissions

Several voluntary and charitable organisations whose fundraising activities include lotteries, scratch-card and bingo promotions, made submissions. The main issues which featured were the bureaucratic nature of the (1961) regulations governing lotteries, the cap on lottery prizes which a number wished to see raised or abolished, and the 40% limit on operating costs for periodical lotteries. The need for proper regulation of charities generally, howev-

er, was the most prominent issue. A number of those charities who are in receipt of funding from the Charitable Lotteries Fund stressed the importance of this source of finance to their organisations.

6.4 General

A number of other submissions were received from groups and individuals with an interest in the general area. These included submissions in relation to the promotion of commercial bingo, sales promotion schemes, Internet gambling and “professional” lottery operators. In addition, bodies representing the established horse and greyhound racing industries expressed concern at the possible adverse affect on their industries of casino-type gambling in this country.

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7. Responses to the Issues

7.1 **Balanced approach**

Gaming and lottery activities touch on a wide range of interests and throw up a variety of conflicts which are not always easily reconciled. Those strenuously opposed to gambling per se may be quite happy to partake in moderate social lotteries or draws. Many charities, both large and small, depend on lotteries for a significant proportion of their income, as do a wide range of voluntary, sporting and other philanthropic organisations. Gaming and gaming machines on the other hand, in their various forms have, rightly or wrongly, always tended to be regarded in a different light, usually devoid of any positive connotations.

Gambling in its various forms occupies a significant place in the recreational profile of modern Irish society. The major annual festival race meetings attract huge crowds and generate record betting turnover each year. The extent of involvement in the National Lottery through workplace and social syndicates bears further witness to the willingness of most people to “have a flutter”. Through the National Lottery, the State is now one of the largest promoters of gambling. The recent reductions in tax on bets with bookmakers - both on the racecourse and in bookmakers’ offices - have resulted in major increases in expenditure on this form of gambling. The Group noted that these developments may not appear to be consistent with the *raison d’être* of the 1956 Act (not to stimulate demand for gambling), and at the very least, need to be continually assessed in relation to the social policy objectives contained in the Group’s recommendations.

Having regard to the above, the Review Group took the view that in the overall context, its recommendations should reflect, insofar as is possible, current policy and social attitudes towards gambling within the State. It should also reflect the demand, or lack of it, for change from those with an economic interest, as well as the general public. Participation in legal gambling is a matter of personal choice for each individual. There is an ongoing balance to be achieved between legitimate social activity, returns to the Exchequer (whether tax or reinvestment for good causes), and the restriction of gambling for reasons of responsible social policy.

The recommendations listed below reflect the Group’s concerns to provide a balanced regulated environment which would:

- restate confidence in the Gaming and Lottery area;
- provide appropriate safeguards for young persons and potential problem gamblers;
- allow the industry to develop in a structured coordinated way;
- offer reasonable access to gaming and lotteries activities for those with an interest in same.

7.2 **Implementation of the recommendations of the review**

Issue

The Review Group first considered how best their recommendations might be implemented overall. While significant changes to some of the Act’s provisions could be brought about by short amending legislation, the Group considered that, until a proper regulatory environment is put in place, little benefit would accrue from, say, simply amending the stake and prize limits, as this would probably exacerbate the enforcement difficulties being encountered at present. It concluded therefore that appropriate legislation should first be introduced.

Recommendation 1

1. A Bill should be brought forward to replace the 1956 Gaming and Lotteries Act, which should largely cover the same areas as the existing Act. Specifically:

- it should provide for the establishment of the proposed Gaming and Lotteries Authority and set out its functions and responsibilities;
- it should set out the general principles and parameters governing gaming and lotteries;
- in the interests of flexibility of response to changing circumstances, it should provide where appropriate, and to a greater extent than the 1956 Act, for the making of regulations as appropriate from time to time, which would prescribe the specific operating conditions and requirements for gaming and lotteries.

7.3 **Overall control and regulation of gaming and lotteries**

Issue

The Group concluded early in their deliberations that some form of structural reform was critical. In looking at other areas, it noted a movement towards regulation by specialist agencies in various forms. Examples include premium rate telephone lines (Regtel), broad-

7. Responses to the Issues

casting (IRTC), data protection (The Data Protection Commissioner), Telecom (Office of the Director of Telecommunications) and forms of money lending which have been assigned to the Director of Consumer Affairs. Structural reforms considered by the Group in this area included:

- leaving enforcement functions with the Gardai;
- some form of self-regulation, by the Gaming and Lottery industry;
- leaving some functions with the Gardai but giving a charitable fundraising registration authority (when established) the power to make regulations for holding lotteries, and licensing nation-wide schemes in line with the Costello Committee and Burton Group's recommendations.

In relation to the future role of the Gardaí, the Group noted the views of the Report of the Steering Group¹⁸ referred to in paragraph 4.20.

That Report had considered the appropriateness of the various functions associated with the issuing of licences generally in a range of areas including liquor, auctioneering and public collections etc., as well as gaming and bookmaking. The Review Group agrees with the views expressed in the Report that these responsibilities should be assigned to a body other than the Garda Síochána. While there would be a continuing role for the Gardai, the Group concluded that the front-line responsibility for regulations, monitoring, and where appropriate, enforcement, should rest elsewhere.

Self-regulation is a principle which is not generally applied where large financial transactions and/or revenue or taxation issues arise. In addition, significant public order aspects arise. Both the Costello and Advisory Groups reports recommended giving a role to a fundraising registration authority in relation to the regulation of lotteries. The Review Group does not favour splitting responsibility for lottery regulation between a fundraising authority for those specific lotteries, and a Gaming and Lotteries Authority for all other lotteries. However, in devising standards of regulation, regard should be had to the requirements for registration with the charitable fundraising authority, so as to avoid any unnecessary administrative burdens for charitable bodies.

The preference of the Group is to establish a dedicated Authority which would have specific

statutory duties in relation to the control and regulation of gaming and lotteries and would advise the Government on policy development in this area. While, on the basis of figures available to the Review Group, it was expected that the Board would be self-financing having regard to fees and charges under new legislation, the case for full self-financing cannot be adequately made at this point. Much depends on how the market will develop. The new arrangements and the self-financing aspect may have to be reviewed over time.

Recommendations 2 & 3

2. Direct responsibility for the overall regulation of gaming and lotteries should be vested in a Gaming and Lotteries Authority which should, as far as possible, be self-financing on the basis of fees and other charges for the range of inspection and other services provided. Such fees and charges, should, when introduced, be separate and distinct from the existing range of revenue excise duties which will remain in force.

3. The Gaming and Lotteries Authority should, with the consent of the Minister, be empowered to make statutory regulations governing the control and supervision of lawful gaming and lotteries activities*. Its duties and responsibilities would include:

- ensuring compliance with the provisions of the new legislation;
- advising Government on proposals for change where necessary;
- monitoring developments in the general areas under its control in order to assist in the formation and development of policy in the gaming and lotteries area.

*Apart from the National Lottery

A list of functions which the Review Group would see as appropriate to the Gaming and Lotteries Authority is included at Appendix 13.

7.4 Local authority powers

Issue

The Review Group gave this particular provision of the Act long and careful consideration and found strong arguments for both the retention of the power as well as its removal. The various issues involved are summarised at paragraph 4.2 of this report. The Review Group noted current Government policy in relation to devolution of additional powers and functions

7. Responses to the Issues

to the local government sector. It was also conscious of the possibility that the removal of this particular function from local authorities might well add considerable impetus to the establishment of new gaming and amusement arcades in parts of the country where no such facilities exist at present and where there is no apparent demand for such facilities. In the final analysis, it was felt that community values and preferences are best exercised under existing arrangements and that the existing issues in this area are best addressed within the context of continuing local authority involvement. To summarise, the Review Group accepted that, while valid arguments can be made for and against a continuing role for local authorities, their powers to adopt or rescind the provisions should on balance be maintained, with certain safeguards relating to the protection of those who might be affected by local authority decisions.

In general, the Group felt that local authorities should, in the interest of natural justice, address and be seen to be addressing, any inequities arising in the exercise of their function in this area.

Recommendations 4 to 6

4. The new legislation should provide for the retention of local authority powers, as currently provided by the 1956 Act, in respect of gaming within their administrative areas, subject to statutory provision for 5 and 6 below.

5. In cases where a local authority decides to rescind a motion which allows gaming to take place, consideration must be given to hardship arising for existing operators whose compliance with relevant requirements is not in question. In doing this, a deferral of the coming into force of a rescinding motion for a period of up to two years should be considered.

6. All rescinding motions should be accompanied by a detailed statement giving reasons for the motion and setting out the background to the reasons for the rescinding.

7.5 Licensing of premises for gaming

Issue

The current system for the licensing of gaming arcades and premises relies on the District Court as the effective authority in areas where Part III of the Act is in force. This is a relatively open process which provides the public with an opportunity to be heard and the Review

Group is not aware of any valid reasons for changes to these arrangements.

Recommendations 7 to 12

7. Subject to the exercise of the local authority function, premises in which gaming machines are to be located, including amusement halls, arcades or other premises, should continue to require a licence which may be obtained from the Revenue Commissioners, on the basis of a certificate obtained, on application, from the District Court.

8. A tax-clearance certificate should be a requirement for the granting of a gaming premises licence.

9. The Authority should be notified in advance and be entitled to be heard at all court hearings for certification of premises.

10. The Authority may oppose or support any application on grounds which include:

- sufficient demand in a particular area;
- that it is (or is not) satisfied as to the type of activity proposed;
- the suitability of the personnel involved;
- the arrangements proposed to prevent underage gaming.

11. Applications to the District Court for certificates in a prescribed format should be forwarded to the authority in advance of the hearing and should also be advertised in a newspaper circulating nationally.

12. Gaming premises licences should not be approved in respect of premises licensed to sell alcohol, registered clubs, or bookmakers' premises.

7.6 Gaming machines

Issue

The Review Group identified a number of serious problems in relation to the operation of gaming machines. These included:

- a lack of clarity regarding the classification of the various gaming and amusement with prizes machines (AWPs);
- the siting of machines such as 'Poker' machines in some licensed premises;
- the siting of gaming machines in premises in respect of which no gaming licence exists.

7. Responses to the Issues

The Review Group is aware of certain types of machines which are in widespread use and which are being represented as amusement-only machines. They accept cash in the form of £1 coins which allow the player to play “games” such as simulated poker. By playing successfully, which is purely a matter of chance and totally in the control of the machine, credits may be accumulated, which can then be exchanged for cash, which is, in effect, the winnings. This situation has some parallels with the regime which applied from 1956 to 1968 when gaming machines which did not pay out directly to the player were deemed legal. This was subsequently rejected by the Courts. These machines have the capacity to generate substantial losses for players. While they may be licensed from a revenue point of view as amusement machines, their use in this manner clearly constitutes gaming.

In respect of machines located in licensed arcades, as referred to above, there is at present no system of control or monitoring in place for checking pay-out levels or preventing manipulation. In addition, the location and siting of gaming machines in premises where amusement-only machines are also located requires attention for reasons referred to earlier in this report (see paragraph 4.4). As regards siting gaming machines in premises selling alcohol, the Group found no reason to remove the siting prohibition in this area.

Recommendations 13 to 22

13. Definitions of gaming machines should be revised to remove any scope for circumvention of the law.

14. Each gaming machine in use at licensed gaming premises or elsewhere should be individually certified and carry an official registration/certification approved by the Gaming and Lotteries Authority.

15. A new fee-based system of classification of gaming machines should be introduced with two classes of machine: (i) gaming and; (ii) amusement-with-prizes (AWPs).

16. Gaming machines should be located exclusively in premises which are licensed for the purpose, and sited in discrete areas of such premises, free of AWP and away from video or other forms of amusement-only machines. If it is proposed to site such machines in the same premises, the proposed

siting layout should be submitted in advance of the licence application and should be subject to the approval of the Authority.

17. Premises or areas containing amusement-only or AWP should not be accessed through premises licensed for gaming or vice versa. All such premises should have a separate entrance.

18. There should be no restrictions on the siting of (non-cash prize) amusement-with-prizes machines (AWPs), operated in accordance with the permitted stake and prize limits.

19. A minimum verifiable percentage payout level, to be set by the Gaming and Lotteries Authority, should apply to all gaming and AWP machines. Arrangements for the calibration of the machines and for inspection checks etc. should be put in place by the Gaming and Lotteries Authority.

20. The classification system for gaming machines should be prescribed by regulation in the form of statutory instrument (S.I.) drawn up by the Gaming and Lotteries Authority and approved by the Minister.

21. The prohibition on locating gaming machines in licensed premises should be maintained and extended to all premises licensed for the sale of alcohol and excisable liquor.

22. Gaming machines should be prohibited in all places other than premises and locations licensed for gaming.

7.7 Gaming machine stake and prize limits

Issue

Stake and prize limits were to the forefront in the range of issues which arose in the context of the submissions relating to gaming. The value of money has increased by a multiple of almost 17 since the 1956 Act was enacted. The equivalent values in today's terms therefore, are approximately, 41p (2.5p) for stake and £8.26 (50p) for prizes. Submissions received suggested a wide range of increases. In one case, suggested maximum prize levels exceeded the current maximum lottery prize of £10,000, although many of those who made suggestions recommended stakes of 50 cents (40p) and maximum prizes in the 100 to

7. Responses to the Issues

200 Euro range (£78 - £157). The Group noted, however, that almost all of the demands for increased stake and prize levels originated from the industry rather than other sources, (such as, for example, users of machines or regular visitors to arcades). Higher prizes or jackpots create an incentive to gamble and most gaming machines currently provide for the accumulation of credits or multiple stakes up to several pounds. This may have the effect of encouraging players to gamble more than would be the case were the machine limited to simply accepting the maximum permitted stake or, say, limited multiples thereof.

The Review Group does, however, acknowledge that the existing stake and prize levels are not realistic. The current situation may well have had the effect of encouraging non-compliance, by whatever circuitous means, as the law has, in effect, been rendered obsolete in the eyes of those with an economic interest in gaming. In the circumstances, the Group decided that a moderate increase above equivalent values in these levels should be applied as soon as the new regulatory framework is in place.

In considering its recommendations for revised stake and prize levels, the Review Group sought to achieve a balance between an economically viable structure for the operators and the need to ensure that the levels proposed would not stimulate an excessive demand for gambling on gaming machines.

The revised maximum stake limits for gaming machines approximately reflect the increase in the value of money since 1956. The recommended maximum prize, has, however, been set at a value somewhat in excess of the equivalent amount, but it should be remembered that the limits, when set in 1956, were regarded even at that time, as somewhat restrictive.

The Review Group further considers that these limits should not be enshrined in primary legislation as it may be desirable for a number of reasons to retain the means to vary them from time to time, for example:

- if it is considered that some allowance should be made for inflation;
- in the event of once-off situations such as the introduction of the Euro;
- to cater for the need, if the case arises, to provide for different limits in different locations;
- for reasons of liberalisation.

Recommendations 23 to 26

23. (i) an increase in the stake and prize limits for all gaming and gaming machines to 50 cents and 20 Euro (39p and £16) maximum respectively should be introduced as soon as the revised regulatory machinery is in place and (ii) amusement-with-prizes machines (AWPs), should have a maximum stake of 25 cents (19p) and a maximum non-cash prize to the value of 6 Euro (£5.00)

24. The maximum amount/value of “credits” that gaming machines should be permitted to hold or display at any one time should not be greater than twice the permitted maximum stake.

25. No credits should be permitted with the non-cash prize AWP machines.

26. Provision should be made for the adjustment of stake and prize limits for gaming by Order, by the Gaming and Lotteries Authority, with the approval of the Minister.

7.8 Gaming at funfairs, carnivals, and other special or once-off events

Issue

The Review Group is of the view that, subject to appropriate safeguards, gaming in line with the revised legal requirements should be permitted in association with events such as those above.

Recommendations 27 & 28

27. Gaming in conjunction with carnivals, travelling shows etc., conducted in accordance with the general provisions of the new legislation, should be allowed under temporary permit from the Gaming and Lotteries Authority. Such permits may attach additional conditions as appropriate to the circumstances.

28. The arrangements for these events should be such so as to provide adequate safeguards in order to prevent underage gaming

7.9 Casinos

Issue

Casino gaming is illegal in this country at present. In the light of the Government’s decision in 1996, as pointed out in paragraph 4.7, the Group took the view that they were not in a position to make any recommendations regarding this area, other than to reaffirm the existing prohibition on casino-type games in the 1956 Act.

7. Responses to the Issues

Recommendation 29

29. The ban on casino-type gaming included in the 1956 Act, should be retained in the new legislation to confirm current policy in this area.

7.10 Unlawful gaming

Issue

The Group saw no reason to change the primary philosophy in the 1956 Act which declares all gaming unlawful and then proceeds to define the conditions under which it might be legal.

Recommendation 30

30. The prohibition on unlawful gaming under s. 4 of the 1956 Act should be retained

7.11 Enforcement of gambling contracts

Issue

The exclusion of gambling contracts from litigation is a long-standing legal provision. The Review Group saw no reason for recommending any changes in this area. Attention is, however, drawn to the particular challenges which this holds in the Internet gaming area.

Recommendation 31

31. The provision in the 1956 Act which renders gambling contracts void should be retained in the new legislation.

7.12 Lotteries

Issue

In considering the overall situation regarding lotteries and the various submissions received from the charitable, philanthropic and other interests, the Review Group concluded that, in general, the current arrangements are working reasonably well. A number of the provisions of the 1956 Act relating to lotteries, as identified in paragraphs 4.12 to 4.16 do, however, require attention.

Lotteries in their various forms play some part in the social and recreational lives of the majority of the population. They are generally at the “soft” end of the gambling market and are not usually associated with problem gambling. Nevertheless, as lotteries have the potential to generate substantial amounts of money, an appropriate level of regulation and control is essential.

The Review Group examined the range of lotteries permitted under the 1956 Act, and having regard to the submissions received and experience since the Act was introduced, decided that some changes in the categories of lotteries permitted should be introduced. Four new categories are proposed with different licence/permit requirements attached to each.

The first three categories are distinguished in terms of the prize limits. The fourth category addresses a specific issue relating to sales or promotions where a lottery element is included. While the issue could be addressed by prohibiting such promotions (which has proved problematical in the past both here and elsewhere) the Group felt that they should, in fact be brought within the regulatory framework. The overall objective should be to ensure that the lottery involved is lawful and that it is not conducted for direct personal or corporate gain, although it was accepted that the commercial enterprise may, nevertheless, benefit indirectly.

Recommendations 32 to 35

Provision should be made for:

Category 1 Lotteries

32. Lottery schemes (including bingo) with a maximum prize fund of £15,000 per week, or £50,000 per month, operated under a licence issued by the Gaming and Lotteries Authority.

Category 2 Lotteries

33. Lotteries (including bingo) with a maximum prize fund of £3,000 per three month period, operated under a permit to be issued by the Gaming and Lotteries Authority.

Category 3 Lotteries

34. Lotteries with a maximum prize fund of £500, limited to one lottery per month, without the requirement for a permit or licence but complying with requirements as set out in regulations by the Gaming and Lotteries Authority.

The beneficial interest in the above lotteries should rest with philanthropic, charitable or other similar interests, and no personal gain should accrue to the operators/promoters

and

Category 4 Lotteries

35. Lotteries operated in conjunction with, or

7. Responses to the Issues

as part of, sales or marketing promotions. The lottery element of such enterprises should not involve any personal gain for the promoters/operators. A permit should be obtained from the Gaming and Lotteries Authority on application in a prescribed form.

Recommendation 36

36. Appropriate fees should be payable on application to the Gaming and Lotteries Authority for lottery licences, permits, registrations, etc..

7.13 Cap on lottery prizes

Issue

The Review Group were aware of the call for the total removal of the cap on lottery prizes. It also noted the role played by the Charitable Lotteries Fund, which in the year 2000 will dispense £6mn to qualifying charities. To totally remove the “cap” would (potentially) provide direct competition for the National Lottery and the Group feel that this might not be in the best interests of the State or the charitable fundraising sector as a whole. However, the Group felt that a review of the maximum prize level permitted was now warranted, having regard, inter alia, to inflation since the limits were last reviewed in 1987. In the circumstances, it decided to recommend an immediate increase of the prize level for periodical lotteries which has been set at £10,000 per week since 1987.

Recommendation 37

37. The Review Group recommends that the prize limit for periodical lotteries under section 28 of the Gaming and Lotteries Act be revised to £15,000 per week. This adjustment should be implemented as soon as possible by Ministerial Order.

7.14 Foreign lotteries

Issue

A prohibition on the promotion of foreign lotteries within the State is a provision common to almost all countries where lotteries are lawfully conducted. The prohibition has, in general terms, been upheld by the European Court for reasons of national interest. While the sales of foreign lottery tickets, mainly those originating in the UK, are not considered to be as significant as before, the Review Group is nevertheless concerned at the continuation of a practice which it believes to be illegal.

Recommendations 38 & 39

38. The prohibition on the promotion of foreign lotteries within the State should be retained.

39. The new legislation should contain provisions to ensure that the Gaming and Lotteries Authority can take effective proceedings on foot of offences in this area.

7.15 Internet gaming and lotteries

Issue

The range of illegal uses of the Internet and the enforcement difficulties associated with such use has been well documented in the first report of the Working Group¹⁹ which studied this area. While that report did not examine the specific problems associated with gambling on the Internet, many of the conclusions reached in the report are valid for the gambling area. Conclusions on enforcement difficulties are particularly relevant, and any form of regulation will inevitably have to reflect the unique technical and legal issues posed by this new medium.

While the main debate on Internet gambling appears to have centred in the US and on the current federal proposals for a total ban on Internet betting, it is inevitable that the issue will move closer to these shores. The Group feels that current telephone betting /gaming services will inevitably move to an Internet base, given the advantages of the technology. Jurisdictional issues in this area are already emerging.

Liability issues in the Internet gambling area are likely to be as complex as in other areas of Internet activity. For example, the discussion so far on the regulation of gaming and lotteries has assumed that the provider of the gambling service is located in this jurisdiction and can therefore be made amenable to national law. The focus is on the provider of the service and not on the players. In an Internet environment, special consideration would have to be given to both the liability and protection of the player. The Australian Player Protection Act is a good illustration of this point.

With Internet operations, the provider may not be within the jurisdiction and may be providing a service which may be legal where the service is being hosted, but illegal where the service is being accessed. This is not an unusual phe-

19. Illegal and Harmful Use of the Internet, First Report of the Working Group. Department of Justice, Equality and Law Reform, 1998.

7. Responses to the Issues

nomenon in Internet services. The logistical (not to speak of legal) difficulties of dealing with this situation and of enforcing the law at player level are enormous. Attempts to fix liability at Internet Service Provider level are also fraught with difficulties.

Internet gambling, despite its growth, is still at an early stage of development and it is difficult to anticipate the way in which it will develop to affect this country. To the extent that the Internet is simply used in this jurisdiction as a medium to transact legal gaming and lottery activities, then it should be subject to the national laws which apply to that activity.

Particular challenges to service providers will lie in the implementation of age restrictions and the regulation of the on-line financial transactions involved. Other legal issues may arise in the form of enforcing gambling contracts. The Group has noted examples of Internet gambling services which, though provided in a particular country, are not available to residents of that country. While this may represent a restraint on the proliferation of gambling activities in that country, in the longer term, as more countries establish such services, the overall effect will be to raise the levels of on-line gambling generally. The other side of this coin is, of course, a situation where a service is confined to a particular country (such as a national lottery service) where restriction on the promotion of gambling services abroad is part of a general agreement between states.

Overall, the group felt unable to make specific recommendations with regard to the regulatory environment which should apply to any future Internet gaming and lottery activities, other than to point out that any such activity should be in conformity with national legislation. Internet developments are as likely to be in the area of betting as in the area of gaming and lotteries, thus outside our terms of reference.

It is suggested in view of the complex financial, revenue, legal and technical issues involved, that a special group with appropriate competencies, outside that contained in the present Review Group, could be established to examine this area. The recently appointed Internet Review Board might be consulted in this regard. Whatever regulatory system is adopted, the Group also feels that it should conform with the general principles established in this report

for the control of gaming and lottery activities generally. Separate standards for off-line and on-line environments will only create serious problems for society in the longer term.

Recommendation 40

40. New legislation should ensure that prohibitions on specific elements of gaming and lottery activities within the jurisdiction should be enforceable in both on-line and off-line environments. Providers of such on-line services should be able to guarantee that national law in this area is capable of being complied with.

It should be noted that regulation of any Internet-based National Lottery activities will remain subject to the provisions of the National Lottery Act 1986.

7.16 Age limits for gambling

Issue

The Review Group is aware, from research and other sources referred to elsewhere in this report, that one of the major concerns which arises in the context of gaming machines relates to the dangers involved for young people. Given these concerns, the age limit of 16 years which applies at present is considered too low. The Group was of the view that it should be revised to take account of and be consistent with age limits for other forms of gambling and activities, such as betting with bookmakers, the buying of National Lottery products and the purchase of alcohol.

In addition, the Review Group is concerned that no age limit applies at present to betting on the totalisator at racecourses or greyhound tracks. Although the Group acknowledges that the 1929 Totalisator Act does not lie within its terms of reference, it is of the view that it is an issue which should, for the sake of consistency, be addressed.

Recommendations 41 & 42

41. An age limit of 18 years should apply to the use of gaming machines other than AWP's, the purchase of all lottery tickets, and the placing of bets with the totalisator.

42. The new Act should place the responsibility for ensuring that the age limit is strictly enforced on the operators/proprietors of gaming premises and the vendors of lottery tickets.

7. Responses to the Issues

7.17 Offences, enforcement, penalties and related issues

Issue

The Review Group was concerned at enforcement difficulties with the Act on a number of fronts. Offences involved included:

- exceeding the gaming machine stake and prize limits;
- gaming in unlicensed premises located in areas where part III of the Act was not in force;
- the siting of gaming machines in pubs and other premises where alcohol was available.

Apart from the enforcement problems in those areas, the Group felt that the penalties in force under the Act (£100 and/or three months' imprisonment) would appear to have insufficient deterrent value.

Recommendations 43 to 46

43. Stringent penalties which reflect the gravity of the offence, and which are in line with those for illegal betting, included in the Finance Act should be provided to ensure sufficient deterrent for compliance. Penalties should include provision for the forfeiture of machines and equipment.

44. Powers of entry and evidence should be revised and strengthened.

45. The prohibition on cheating in the 1956 Act should be maintained.

46. In the case of alleged breaches of the law, prosecutions should be instigated by the Gaming and Lotteries Authority. This will not affect the existing powers of the Revenue Commissioners to act in revenue-related cases.

7.18 Co-ordination of gambling policy

Issue

It must be recognised that different but very legitimate perspectives exist within the overall area of gambling. Such perspectives can vary from reshaping social policy, to an emphasis on particular organs of the State to produce more revenue. A balance needs to be achieved in reconciling and promoting these objectives for the overall benefit of society. The Group believes that such a balance will not be

achieved through the normal co-operation measures associated with State activity as a whole. It concludes, therefore, that a special forum should be established which will address these concerns.

This co-ordinating forum will have even more relevance as the traditional boundaries between the various forms of gambling continue to evolve in the wake of significant technological developments. It will provide for consultation and co-ordination between the various agencies charged with responsibility in the gambling area in the interest of a balanced overall approach, having regard to social policy and other relevant considerations and objectives.

Recommendation 47

47. A non-statutory mechanism should be put in place to facilitate ongoing consultation between the various agencies involved in the control and regulation of all forms of gambling in Ireland. The primary objective should be to provide for an integrated and balanced approach to the various social policy considerations which arise in the gambling area.

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Gaming and Lotteries Act, 1956

The following represents a restatement of the law on gaming and lotteries, as set out in the Gaming and Lotteries Act, 1956, together with amendments to that Act made by subsequent Acts and S.Is.

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43. Evidence of unlawful gaming.
44. Offences.
45. Offences in relation to bodies corporate and Unincorporated bodies.
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50. Records, accounts and returns.
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SCHEDULE.

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GAMING AND LOTTERIES ACT, 1956

[Text of 1956 Act, with amendments effected by later Acts and S.I's]

PART I

PRELIMINARY AND GENERAL

1.(1) This Act may be cited as the Gaming and Lotteries Act, 1956.

Short title and commencement.

(2) This Act shall come into operation on such day as the Minister shall by order appoint.

2.-In this Act-

Definitions.

"banker" in relation to a game means the banker or other person by whom the game is managed, or against whom the other players stake, play or bet;

"gaming" means playing a game (whether of skill or chance or partly of skill and partly of chance) for stakes hazarded by the players;

"gaming instrument" means any table or instrument of gaming and any coin, card, token or other article used as an instrument or means of gaming;

"gaming licence" means a licence under section 19;

"local authority" means a body being the council of a county, the corporation of a county or other borough, the council of an urban district or the commissioners of a town;

"lottery" includes all competitions for money or money's worth involving guesses or estimates of future events or of past events the results of which are not yet ascertained or not yet generally known;

"lottery licence" means a licence under section 28;

"the Minister" means the Minister for Justice;

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"public place" means any place to which the public have access whether as of right or by permission and whether subject to or free of charge;

"society" includes a club, institution, organisation or other association of persons by whatever name called;

"stake" includes any payment for the right to take part in a game and any other form of payment required to be made as a condition of taking part in the game but does not include a payment made solely for facilities provided for the playing of the game;

"Superintendent" includes an Inspector acting as Superintendent.

3.The enactments mentioned in the Schedule are hereby repealed.

Repeals.

PART II

GAMING

4.(1) No person shall promote or assist in promoting or provide facilities for any kind of gaming-

Unlawful gaming.

(a) in which by reason of the nature of the game, the chances of all the players, including the banker, are not equal, or

(b) in which any portion of the stakes is retained by the promoter or is retained by the banker otherwise than as winnings on the result of the play, or

(c) by means of any slot-machine ~~not prohibited by section 10.~~

No. 6 of 1979

(2) Such gaming is in this Act referred to as unlawful gaming.

(3) Gaming shall not be unlawful if no stake is hazarded by the players with the promoter or banker other than a charge for the right to take part in the game, provided that-

(a) only one such charge is made in respect of the day on which the game is played, and

(b) the charge is of the same amount for all the players, and

(c) the promoter derives no personal profit from the promotion of the game.

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5.-No person shall open, keep or use any building, room or place, enclosed or unenclosed, or permit it to be opened, kept or used for unlawful gaming or take part in the care and management of or in any way assist in conducting the business of any building, room or place so opened, kept or used.

Use of places for unlawful gaming.

6.-(1) Gaming carried on at any place as part of a circus or other travelling show shall not be unlawful gaming if-

Gaming at circus or travelling show.

(a) gaming is not the main activity at the show, and

(b) the gaming does not extend over a period exceeding ten days and has not been carried on during the preceding three months as part of the show when being held at that place or anywhere within three miles of that place, and

(c) the stake in each game is not more than sixpence for each player, and

(d) no person under sixteen years of age is permitted to play, and

(e) no player may win more than the value of ten shillings in each game, and

(f) neither taking part in nor the result of a game entitles the player to take part in any other game or lottery or otherwise to receive or be eligible to compete for any money or money's worth, and

(g) notice in writing of the dates of gaming at the show has been previously given by the promoter to the Sergeant in charge of the local Garda Síochána station.

(2) For the purpose of paragraph (b) of subsection (1), the promotion of a lottery shall be deemed to be the carrying on of gaming.

7.-(1) Gaming carried on as part of a carnival, bazaar, sports meeting, local festival, exhibition or other like event shall not be unlawful gaming if-

Gaming at carnivals.

(a) the persons arranging for the holding of the event derive no personal profit from the event or from the game, and

(b) gaming is not the main activity of the event, and

(c) gaming at the event does not extend over a period exceeding one month, and

(d) the stake in each game is not more than sixpence for each player, and

(e) no person under sixteen years of age is permitted to play, and

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(f) no player may win more than the value of ten shillings in each game, and

(g) neither taking part in nor the result of a game entitles the player to take part in any other game or lottery or otherwise to receive or be eligible to compete for any money or money's worth, and

(h) notice in writing of the dates of gaming at the event has been previously given by the promoter to the Sergeant in charge of the local Garda Síochána station.

(2) For the purpose of paragraph (c) of subsection (1), the promotion of a lottery shall be deemed to be the carrying on of gaming.

8.(1) In this section-

"qualified individual" means an individual who, during the period of twelve months preceding a given date, has had his usual or principal place of residence in the State;

"qualified company" means a body corporate in the case of which both a majority of the members and a majority of the persons exercising control and management are qualified individuals.

(2) Nothing in section 6 or section 7 shall render it lawful for a person to promote, assist in promoting or provide facilities for gaming to which section 4 applies unless-

(a) that person is a qualified individual or a qualified company, and

(b) if that person is acting on behalf of another person, that other person is also a qualified individual or a qualified company or an unincorporated body of persons, each member of which is a qualified individual.

(3) This section does not apply to an individual who is merely assisting in the promotion of gaming in accordance with a contract of service.

9.(1) The licensee of premises licensed for the sale of intoxicating liquor shall not permit gaming on the premises.

(2) This section shall not prohibit the licensee or his private friends from playing cards for stakes in a part of the premises other than that in which the sale of intoxicating liquor generally takes place if the friends are being entertained by him at his own expense.

(3) This section does not apply to the playing of a game where no stake is hazarded by the players other than a charge for the right to take part in the game, provided that-

(a) only one such charge is made in respect of the day on which the game is played, and

Residence qualifications for promoters of gaming.

Gaming on licensed premises.

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(b) the charge is of the same amount for all the players, and

(c) the promoter (if any) derives no personal profit from the promotion of the game.

(4) A conviction for an offence under this section shall, if the Court in its discretion so thinks proper, be recorded on the licence.

~~10.-(1) No person shall operate or cause or permit to be operated or provide facilities for the operation of any slot machine designed to deliver, when successfully operated, a money prize or a token or other article which the promoter or any person acting on his behalf undertakes or is willing to exchange for money or money's worth or which may be used to enable the machine to be operated again.~~

Prohibition of slot machines.

No. 6 of 1970

~~(2) A person who has given money or money's worth in exchange for a token or other article delivered from a slot machine shall be deemed, if not himself the promoter of the machine, to be acting on behalf of the promoter unless the contrary is shown.~~

~~(3) This section does not apply to a machine which is designed for amusement only and, when successfully operated, delivers no more than the amount of the stake and bears a notice explaining that it is of that kind.~~

11. Every person who by any fraud or cheat in promoting or operating or assisting in promoting or operating 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 or causes or procures any person to win from another anything capable of being stolen shall be deemed guilty of obtaining such thing from such other person by a false pretence, with intent to defraud, within the meaning of section 10 of the Criminal Justice Act, 1951 (No. 2 of 1951), and on conviction shall be punished accordingly.

Cheating.

PART III

LICENSING OF AMUSEMENT HALLS AND FUNFAIRS

12. This Part shall not have effect in any area unless there is for the time being in force a resolution under section 13 adopting it for that area.

Application of this Part.

13.(1) A local authority may by resolution adopt this Part in respect of the whole or a specified part of its administrative area and may by resolution rescind such adoption.

Adoption of this Part by local authority.

(2) For the purpose of this section the administrative area of the council of a county shall not include any borough, urban district or town.

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(3) A resolution shall not have effect unless not less than one month's notice of the intention to propose it has been given in writing to every member of the local authority and has been published by advertisement in at least two newspapers circulating in the area to which the proposal relates.

(4) A local authority on passing a resolution shall cause notice of the fact to be published in at least two newspapers circulating in the area to which the resolution relates and shall as soon as may be send a copy of the resolution to the Minister.

(5) Evidence of the passing of a resolution may be given by the production of a copy of a newspaper containing the notice or by the production of a certificate to that effect purporting to be under the seal of the local authority.

14.-Gaming carried on at an amusement hall or funfair shall not be unlawful gaming if-

Licensed amusement hall and funfair.

(a) it is carried on in accordance with a licence, and

(b) the stake in each game is not more than sixpence for each player, and

(c) no person under sixteen years of age is permitted to play, and

(d) no player may win more than the value of ten shillings in each game, and

(e) neither taking part in nor the result of a game entitles the player to take part in any other game or lottery or otherwise to receive or be eligible to compete for any money or money's worth.

15.-(1) The District Court may grant a certificate authorising the issue of a licence permitting gaming at an amusement hall or funfair.

Certificate for gaming licence.

(2) A certificate shall not be granted unless forms of entertainment other than gaming are also provided.

(3) A certificate shall not be granted unless the applicant shows that he is not disqualified by section 8 from the promotion of gaming under section 6 or section 7.

(4) The Court may attach to the certificate conditions limiting the hours during which gaming may be carried on, restricting the kinds of gaming and the extent to which particular kinds of gaming may be carried on, limiting the amount of the stakes and of prizes and prohibiting or restricting gaming by persons under specified ages.

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(5) The certificate shall specify the period in the particular year to which it relates for which the licence is to be issued.

(6) A certificate granted under this section shall not be invalidated by the subsequent rescission of a resolution under section 13.

16.-(1) (a) The intending applicant for a certificate shall give twenty-eight days' notice in writing of his intention to each local authority within whose administrative area the premises to which the application relates are situate and to the Superintendent of the Garda Síochána for the locality.

Notice of application for certificate.

(b) The notice shall state the number and kinds of games proposed to be carried on and the other forms of amusement to be provided.

(2) The applicant shall also cause a notice of his intention to be published at least fourteen days before the hearing in a newspaper circulating in the locality.

17.-(1) In considering an application for a certificate the Court shall have regard to-

Hearing of application.

(a) the character of the applicant or, in the case of a body corporate, of the persons exercising control and management thereof,

(b) the number of gaming licences already in force in the locality,

(c) the suitability of the premises or place proposed to be used,

(d) the class of persons likely to resort to it, and, if the applicant held a gaming licence for that or any other premises or place in the previous year, the manner in which he conducted it, and

(e) the kinds of gaming proposed to be carried on.

(2) At the hearing, the local authority, the Superintendent of the Garda Síochána and any other person who appears to the Court to be interested may appear and may adduce evidence in relation to the application.

18.-(1) Without prejudice to any right of appeal given by any other Act, an appeal shall lie to the Circuit Court-

Appeal in respect of application for certificate.

(a) by the applicant for a certificate-from an order of the District Court refusing the application,

(b) by the applicant-from any particular part of an order of the District Court granting a certificate, and

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(c) by any person who at the hearing opposed the application-
from an order or any particular part of an order of the District
Court granting the certificate.

(2) A certificate granted by the District Court shall remain in full
force until altered or revoked on appeal.

(3) Where, in the case of the refusal of a certificate by the District
Court, the applicant is the holder of a subsisting licence the licence
shall continue in force pending the determination of an appeal
against such refusal.

19.The Revenue Commissioners shall, on the application of a per-
son to whom a certificate for a gaming licence has been granted
and on payment by him of any excise duty provided for by law,
issue to the applicant a licence in such form as they may direct
which shall be and be expressed to be subject to the conditions
attached to the certificate **provided that, notwithstanding any-
thing to the contrary in any other enactment, any licence com-
mencing on or after the 1st day of October,1993, shall not be
granted by the Revenue Commissioners unless a tax clearance
certificate in relation to that licence has been issued in ac-
cordance with section 242 (as amended by the Finance Act,
1993) of the Finance Act, 1992.**

Issue of licence.

No. 13 of 1993 s. 79 (3)

20.The licensee of a licensed amusement hall or funfair shall cause
to be displayed at all times, in a conspicuous position near the
entrance, a notice giving the name and address of the licensee and
the conditions of the licence.

Display of notice by licensee.

PART IV

LOTTERIES

21.(1) No person shall promote or assist in promoting a lottery.

Prohibition of lotteries.

(2) No person shall import, print, publish or distribute or sell, offer
or expose for sale, invite an offer to buy or have in his possession
for sale or distribution any ticket, counterfoil or coupon for use in a
lottery or any document containing any information relating to a
lottery.

(3) If any ticket, counterfoil or coupon for use in a lottery is found
at any place or premises searched in pursuance of a search warrant
under this Act, it shall be evidence until the contrary is proved, in a
prosecution for a contravention of this section, that the person hav-
ing control over the place or premises had it in his possession for
sale or distribution.

(4) This section does not apply to a lottery declared by any provi-
sion of this Part not to be unlawful.

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(5) This section does not apply to the printing of tickets, counter-foils, coupons or other documents for the promoters of a lottery promoted and conducted wholly outside the State.

22.-No person shall print, publish in any newspaper or periodical publication, exhibit on any cinema screen or broadcast by radio any notice or announcement concerning a lottery (other than an announcement of the results of a lottery declared by any provision of this Part not to be unlawful) or cause or procure any such notice or announcement to be so printed, published, exhibited or broadcast or knowingly circulate or cause or procure to be circulated any newspaper or periodical publication containing any such notice or announcement.

Advertisement of lotteries.

No. 28 of 1986 s. 33

23.-A lottery shall not be unlawful if-

Private lotteries.

(a) the sale of chances is confined to-

- (i) the members of one society established and conducted for purposes not connected with gaming, wagering or lotteries, or
- (ii) persons all of whom work or reside on the same premises, and

(b) there is no written notice or announcement relating to the lottery except a notice on the premises of the society or other persons concerned or to members of the society.

24.-A lottery shall not be unlawful if-

Lotteries at dances and concerts.

(a) it is promoted as part of a dance, concert or other like event and the persons arranging for the holding of the event derive no personal profit from the event or from the lottery, and

(b) the total value of the prizes in the lottery is not more than twenty-five pounds and, if more than one lottery is held, the total value of the prizes for the event is not more than twenty-five pounds.

25.-A lottery shall not be unlawful if-

Lotteries at carnivals and other events.

(a) either-

- (i) it is promoted as part of a circus or other travelling show on a day on which under section 6 gaming is permitted, or
- (ii) it is promoted as part of a carnival, bazaar, sports meeting, local festival, exhibition or other like event on a day on which under section 7 gaming is permitted and the persons arranging for the holding of the event derive no personal profit from the event or from the lottery, or

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<p>(iii) it is promoted by the licensee of a licensed amusement hall or funfair as part of the entertainment therein, and</p> <p>(b) the tickets are not sold outside the place or premises where the event is in progress, and</p> <p>(c) they are sold only on the same day or night as the draw and announcement of results, and</p> <p>(d) the price of each ticket is not more than sixpence, and</p> <p>(e) no person may win more than the value of ten shillings in the lottery, and</p> <p>(f) neither taking part in nor the result of the lottery entitles the participant to take part in any other lottery or game or otherwise to receive or be eligible to compete for any money or money's worth.</p>	
<p>26.(1) A lottery shall not be unlawful if it is promoted and conducted wholly within the State in accordance with a permit or a licence.</p> <p>(2) Section 32 of the Betting Act, 1931 (No. 27 of 1931) (which relates to betting on football games), shall not apply to a lottery to which this section applies.</p>	<p>Lotteries under permit or licence.</p>
<p>27.(1) A Superintendent of the Garda Síochána, on the application of any person residing in his district, may issue a permit for the promotion of a lottery in accordance with this section.</p> <p>(2) The lottery shall comply with the following conditions:-</p> <p>(a) the permit-holder shall derive no personal profit from the lottery;</p> <p>(b) the total value of the prizes shall be not more than three hundred pounds three thousand pounds;</p> <p>(c) the value of each prize shall be stated on every ticket or coupon.</p>	<p>Permits.</p>
<p>(3) A permit shall not be granted more than once in six months for the benefit of any one beneficiary.</p> <p>(4) Where, however, a carnival, bazaar, sports meeting, local festival, exhibition or other like event is being organised, the permit may authorise the promotion of more than one lottery in conjunction with it. If more than one lottery is held in any week, the total value of the prizes for the week shall be not more than three hundred pounds three thousand pounds.</p> <p>(5) An appeal shall lie to the District Court from the refusal of a Superintendent to grant a permit. The decision of the District Court shall be final.</p>	<p>S.I. No. 72 of 1987</p> <p>S.I. No. 72 of 1987</p>

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28.(1) The District Court may grant a licence for the promotion, during such period, not exceeding one year, as shall be specified in the licence, of periodical lotteries in accordance with this section.

Lottery licence.

(2) Each series of lotteries shall comply with the following conditions:-

(a) it shall be for some charitable or philanthropic purpose or purposes;

(b) the licensee shall derive no personal profit from it;

(c) the total value of the prizes on any occasion shall be not more than ~~five hundred pounds~~ **ten thousand pounds**, and, if more than one lottery is held in any week, the total value of the prizes for the week shall be not more than ~~five hundred pounds~~ **ten thousand pounds**;

S.I. No. 72 of 1987

(d) the value of each prize shall be stated on every ticket or coupon;

(e) not more than forty per cent. of the gross proceeds shall be utilised for the expenses of promotion, including commission, and any free entry for the lottery shall be deemed to be a payment of commission to the extent of its value.

29.(1) The intending applicant for a licence shall give twenty-eight days' notice in writing of his intention to the Superintendent of the Garda Síochána for the district in which the lottery is to be organised.

Notice of application for licence.

(2) The notice shall state the kind of lottery proposed to be carried on, the purpose of the lottery, the amount, or proportion of the proceeds, intended to be devoted to the remuneration of agents, ticket-sellers and other persons employed in connection with it, and the value of the prizes.

30.Any person who, in support of an application for a licence or permit, makes any statement or representation (whether written or oral) which is to his knowledge false or misleading in any material respect shall be guilty of an offence and shall on summary conviction thereof be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

False statements on application for licence or permit.

31.(1) In considering an application for a licence the court shall have regard to-

Hearing of application.

(a) the character of the applicant, and

(b) the number of periodical lotteries already in operation in the locality.

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(2) At the hearing, the Superintendent of the Garda Síochána and any other person who appears to the Court to be interested may appear and may adduce evidence in relation to the application.

32. Without prejudice to any right of appeal given by any other Act, an appeal shall lie to the Circuit Court-

(a) by the applicant for a licence-from the order of the District Court refusing the application,

(b) by the applicant-from the part of the order of the District Court specifying the period of the licence, and

(c) by any person who at the hearing opposed the application-from the order of the District Court granting the licence or the part of the order specifying the period of the licence.

Appeal in respect of application for licence.

33. Every ticket, coupon, counterfoil and notice relating to a lottery (other than a lottery to which section 23, 24 or 25 applies) shall bear the name and address of the holder of the licence or permit, or, if the licence or permit is in the name of more than one person, of one of them, and of the printer, and of the beneficiary or object, and shall state whether it is being carried on under a licence or under a permit and the Court or Superintendent by whom the licence or permit was granted.

Lottery tickets.

34. (1) No person shall take or send or attempt to take or send out of the State any ticket, counterfoil or coupon for use in a lottery or any money for the purchase of, or any money representing the purchase-price of, a ticket or chance in a lottery or a prize won in a lottery, or any document relating to the purchase or sale of, or indicating the identity of the holder of, any such ticket or chance.

Prohibition on taking or sending money or documents out of State.

(2) This section does not apply to the export of tickets, coupons, counterfoils and other documents printed in the State for the promoters of a lottery promoted and conducted wholly outside the State.

(3) Where a lottery is promoted in accordance with a licence for a beneficiary outside the State, this section shall not prohibit the taking or sending out of the State, to a person acting on behalf of the beneficiary, of documents relating to the lottery when the prize-winners have been determined.

35. The holder of a licence or permit for a lottery shall not be required to hold a bookmaker's licence under the Betting Act, 1931 (No. 27 of 1931), and the Betting Act, 1853, shall not apply in relation to the use of premises in connection with the lottery.

Exemption from Betting Acts.

Appendix 1

PART V

ENFORCEMENT, EVIDENCE AND PENALTIES

36.(1) Every contract by way of gaming or wagering is void.

Gaming and wagering contracts void.

(2) No action shall lie for the recovery of any money or thing which is alleged to be won or to have been paid upon a wager or which has been deposited to abide the event on which a wager is made.

(3) A promise, express or implied, to pay any person any money paid by him under or in respect of a contract to which this section applies or to pay any money by way of commission, fee, reward or otherwise in respect of the contract or of any services connected with the contract is void and no action shall lie for the recovery of any such money.

(4) This section does not apply to any agreement to subscribe or contribute to any plate, prize or sum of money to be awarded to the winner or winners of any game, sport or pastime not prohibited by this Act provided that the subscription or contribution is not a stake.

37.(1) A member of the Garda Síochána may seize any gaming instrument, being ~~a slot machine prohibited by section 10 or a gaming instrument having any device by means of which it can be fraudulently operated or which he has reason to believe is being fraudulently operated or used for unlawful gaming.~~

Seizure of gaming instruments.
No. 6 of 1979

(2) No person shall operate or permit to be operated or be in possession or control of any gaming instrument having any such device.

38.A member of the Garda Síochána may at all reasonable times enter and have free access to any amusement hall, funfair, circus, travelling show, carnival, bazaar, sports meeting, local festival, exhibition or other like event in which gaming or a lottery is or is believed to be carried on.

Power of entry of Garda Síochána.

39.(1) Where a Justice of the District Court is satisfied on the information on oath of a member of the Garda Síochána not below the rank of Inspector that there is reasonable ground for supposing that, at any place or premises, an offence against this Act has been, is being, or is about to be committed the Justice may issue a search warrant under this section.

Search warrant.

(2) The search warrant shall authorise a named member of the Garda Síochána not below the rank of Inspector, accompanied by such other members of the Garda Síochána as that member thinks proper, to enter the place or premises at any time within forty-eight hours after the issue of the warrant, if need be by force, to inspect

Appendix 1

the place or premises and any books and documents found there and to take the name and address of any person, and seize any gaming instrument and any books and documents appearing to relate to gaming or lotteries found there.

40.-(1) A member of the Garda Síochána may arrest without warrant any person whom he finds conducting or assisting in conducting in a public place any kind of gaming which he has reason to believe to be contrary to this Act.

Arrest of offenders.

(2) A member of the Garda Síochána may arrest without warrant any person who, when his name and address are demanded of him under this Act, fails to give them or gives a name or address which such member has reason to believe to be false or misleading.

41.-Any person who obstructs or impedes a member of the Garda Síochána in the exercise of his powers under this Act or who, on being asked his name and address by such member, fails to give them or gives a name or address which is false or misleading shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

Obstruction of Garda Síochána.

42.-If a member of the Garda Síochána is obstructed or impeded in entering any place or premises or any part thereof in the exercise of his powers under this Act or if any gaming instrument, being a ~~slot machine prohibited by section 10~~ or a gaming instrument capable of being used for unlawful gaming, is found therein it shall be assumed until the contrary is proved that that place or premises was or were being kept for unlawful gaming.

Evidence of keeping place for unlawful gaming.

No. 6 of 1979

43.-It shall not be necessary in support of a prosecution in relation to unlawful gaming to prove that any person found playing at any game was playing for any money, wager or stake.

Evidence of unlawful gaming.

44.-A person who contravenes any provision of this Act for which a penalty is not specifically provided shall be guilty of an offence and shall on summary conviction thereof be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Offences.

45.-(1) Where an offence against this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been so committed with the consent or approval of, or to have been facilitated by any default on the part of, any person being, in the case of a body corporate, a director thereof, or, in the case of an unincorporated body, a member of the committee of management or other controlling authority thereof, that person shall also be guilty of the offence.

Offences in relation to bodies corporate and unincorporated bodies.

Appendix 1

(2) Any summons or other document required to be served for the purpose or in the course of proceedings under this section on a body corporate may be served by leaving it at or sending it by registered post to the registered office of that body or, if there be no such office in the State, by leaving it at, or sending it by registered post to, the body at any place in the State at which it conducts its business.

46. Where a person who is the holder of a gaming licence or a lottery licence or permit is convicted of an offence against this Act the Court may revoke the licence or permit.

Revocation of licences and permits.

47.(1) On a conviction for an offence against this Act the Court may order the forfeiture to the Minister of any gaming instrument used in the commission of the offence or, in case of a conviction under section 5, any gaming instrument found on the premises or at the place concerned.

Forfeiture of gaming instruments.

(2) The Minister may deal with or dispose of as he thinks fit any thing so forfeited.

(3) The net proceeds of any thing sold by the Minister in pursuance of this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

48. On a conviction for an offence in relation to a lottery the Court may order the destruction of any documents relating to the lottery.

Destruction of documents.

49.(1) The Minister for Posts and Telegraphs may detain any postal packet posted in the State and suspected of containing any document relating to an unlawful lottery and shall forward every postal packet so detained to a member of the Garda Síochána not below the rank of Superintendent.

Postal packets containing unlawful documents posted in the State.

(2) The member may open and examine the packet, but, in the case of an address within the State, only in the presence of the person to whom it is addressed unless, after notice in writing requiring his attendance left at or forwarded by post to the address on the packet, he fails to attend.

(3) If the member finds any such document he may detain the packet and its contents for the purpose of prosecution, and if he finds no such document he shall either deliver the packet to the person to whom it is addressed or, if he is absent, forward the packet to him by post.

(4) This section shall be construed as one with the Post Office Acts, 1908 to 1951.

Appendix 1

50.-(1) The Commissioner of the Garda Síochána, with the consent of the Minister, may make regulations providing for the keeping of accounts and other records in relation to lotteries and the furnishing of returns and information relating thereto.

Records, accounts and returns.

(2) Every person on whom a duty is imposed by any such regulation shall comply with its provisions.

51.-This Act does not apply to a sweepstake under the Public Hospitals Acts, 1933 to 1940.

Exemption of Hospitals' Sweepstakes.

Appendix 1

Section 3.

SCHEDULE

PART I

ENACTMENTS REPEALED IN WHOLE

Session and Chapter or Number and Year	Title
10 Will. III, c. 23.	An Act for suppressing of Lotteries (1698).
6 Anne, c. 17 (Ir.).	An Act for suppressing Lotteries and Gaming-Tables (1707).
9 Anne, c. 6.	An Act for suppressing Lotteries (1710).
11 Anne, c. 5 (Ir.).	An Act for suppressing Lotteries (1712).
8 Geo. I, c. 2.	Lotteries Act, 1721.
9 Geo. I, c. 19.	Lotteries Act, 1722.
6 Geo. II, c. 35.	Lotteries Act, 1732.
12 Geo. II, c. 28.	Gaming Act, 1738.
13 Geo. II, c. 8 (Ir.) .	An Act for the more effectual preventing of excessive and deceitful Gaming (1739).
19 & 20 Geo. III, c. 5 (Ir.).	An Act for establishing a Lottery (1779-80).
21 Geo. III, c. 14.	Lotteries (Ireland) Act, 1780.
33 Geo. III, c. 18 (Ir.).	An Act to prevent the Insurance of Lottery Tickets, to regulate the Drawing of Lotteries, and to amend the Laws respecting the same (1793).
42 Geo. III, c. 119.	Gaming Act, 1802.
46 Geo. III, c. 148.	Lotteries Act, 1806.
4 Geo. IV, c. 60.	Lotteries Act, 1823.
5 & 6 Will. IV, c. 41.	Gaming Act, 1835.
6 & 7 Will. IV, c. 66.	Lotteries Act, 1836.
8 & 9 Vic., c. 74.	Lotteries Act, 1845.
8 & 9 Vic., c. 109.	Gaming Act, 1845.
17 & 18 Vic., c. 38.	Gaming Houses Act, 1854.
55 & 56 Vic., c. 9.	Gaming Act, 1892.
No. 50 of 1923.	Gaming Act, 1923.

PART II

ENACTMENTS REPEALED IN PART

Session and Chapter or Number and Year	Short Title	Extent of Repeal
35 & 36 Vic., c. 94.	Licensing Act, 1872.	Paragraph (1) of section 17.
No. 7 of 1943.	Intoxicating Liquor Act, 1943.	Section 30.

Appendix 1

Acts and S.Is (Regulations) amending the 1956 Act.

No. 6 of 1970 - Gaming and Lotteries Act, 1970
No. 6 of 1979 - Gaming and Lotteries Act, 1979
No. 28 of 1986 s. 33 - National Lottery Act, 1986
S.I No. 72 of 1987 - Lottery Prizes Regulations, 1987
No. 13 of 1993 s. 79 (3) - Finance Act, 1993

Appendix 2

Membership of the Interdepartmental Review Group

John Haskins, **Chairman**
Joseph Boyle, **Secretary**

Department of Justice, Equality and Law Reform

Carl Marshall

Department of Finance

Tom Brennan

Revenue Commissioners

Ian Keating

Department of Environment and Local Government

Supt. John Kelly

An Garda Síochána

Other attendees

Paul Fleming

Department of Finance

Seán Ó Séaghdha

Revenue Commissioners

Michael McKenna

Department of Environment and Local Government

Appendix 3

Press advertisement regarding the review, 3 June 1999



DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM

PUBLIC ADVERTISEMENT FOR SUBMISSIONS

REVIEW OF THE GAMING AND LOTTERIES ACTS 1956 TO 1986

The Minister for Justice, Equality and Law Reform, Mr John O'Donoghue T.D., has established an interdepartmental Review Group to carry out a review of the above Acts. The Review Group includes representatives from the Departments of Justice, Equality and Law Reform, Finance, Environment and Local Government as well as An Garda Síochána and the Revenue Commissioners.

The Terms of Reference of the Review Group are as follows:

- To review the regulatory environment within which gaming and lottery activities are carried out with particular reference to:
 - the 1956 Gaming and Lotteries Act
 - any other relevant or proposed Irish legislation
 - international developments in the Gaming and Lotteries area
- To identify the issues arising from such a review and to make recommendations designed to address these issues in the context of securing a modern regulatory environment while fulfilling necessary social policy objectives
- To furnish a report on the above for consideration by the Minister and by Government by the end of 1999

SUBMISSIONS

The Review Group invites submissions from interested parties, groups or individuals on issues relevant to the above terms of reference.

Submissions in writing, should be addressed to;

The Gaming and Lotteries Review Group,
Room 116,
Department of Justice, Equality and Law Reform,
72-76 St Stephens Green,
Dublin 2

Submissions can also be made by e-mail to:

glreview@justice.ie

***Submissions should not arrive later than
Friday 16 July, 1999***

Appendix 4

(a) List of persons and bodies who made written submissions

ACRA

14 Tonleegy Drive, Dublin 5.

Athlone Urban District Council

Council Offices, Town Hall, Athlone.

Bird, William

The Stella, 16 Shannon Street, Limerick.

Bird, W., Martin, K., Stanley, R. and O' Byrne, M.

(Joint submission)

Bray Bowl

Quinsboro Road, Bray, Co. Wicklow.

Broadway Amusements

8 Lower O'Connell Street, Dublin 1.

Bundoran Urban District Council

Main Street, Bundoran, Co. Donegal.

Cairnsbury Ltd.

Dublin Road, Kildare.

Cartmill, Bertie

Buncrana, Co. Donegal.

Casinos Austria AG

c/o Valentine Keating & Associates, Malahide, Co. Dublin.

Cassells, Peter J.

36 Linden Grove, Blackrock, Co. Dublin.

Charity Lotteries in Ireland, Association of

26 Merrion Square, Dublin 2.

Clancy, B.E., Liam J.

Main Street, Bundoran, Co. Donegal.

Colms Amusements

St. Mary's Road, Buncrana, Co. Donegal.

Cumann Lúthchleas Gael

Páirc an Chrócaigh, Átha Cliath 3.

Darling(Jr), Paul

Sheshoon, Curragh, Co. Kildare.

Dempsey, Tony

c/o Cairnsbury Ltd., Dublin Road, Kildare.

Doherty, Seamas

Ballinarry, Buncrana, Co. Donegal.

Droichead Nua Town Commissioners

Town Hall, Droichead Nua, Co. Kildare.

Dublin Corporation

Finance Officer & Treasurer's Department, Civic Offices, Block 1, Floor 6, Wood Quay, Dublin 8.

Dublin Pool & Jukebox Co. Ltd.

57/58 Phibsboro Road, Dublin 7.

Duncan Grehan & Partners

Gainsboro House, 24 Suffolk Street, Dublin 2.

F. Marini & Sons Ltd.

Amusement Arcade, 26 Tullow Street, Carlow.

Fitzsimons, Richard

Elm Grove, Kildare, Co. Kildare.

Geary, Joseph

Lisnagrough, Doneraile, Co. Cork.

General Council of County Councils

3 Greenmount House, Harold's Cross Road, Dublin 6 W.

Goldfingers Amusements

Main Street, Bundoran, Co. Donegal.

Hallinan P.C., Michael

78 St. Laurences Road, Clontarf, Dublin 3.

Harlequin Leisure (Irl) Ltd.

Garryspillane, Kilmallock, Co. Limerick.

Health & Social Services, Dept. of

Castle Buildings, Upper Newtownards Road, Belfast, BT4 3PP.

Ireland Against Casinos

5 College Park, Castleknock, Dublin 15.

Irish Amusement Trades Association

Unit One, Anne Street, Wexford.

Irish Cancer Society

5 Northumberland Road, Dublin 4.

Irish Institute of Sales Promotion Consultants

P.O. Box 3739, Dublin 14.

Irish Showman's Guild Ltd., The Association of

Clonlough, Mitchelstown, Co. Cork.

Irish Underwater Council

78A Patrick Street, Dún Laoghaire, Co. Dublin.

Appendix 4

Jasons of Ranelagh

56 Ranelagh, Dublin 6.

K.S.K. Enterprises Ltd.

4/5 Westmoreland Street, Dublin 2.

Kelly, Sean

Breffni, Newtown, Celbridge, Co. Kildare.

Kimble Manufacturing Ltd.

Bachelors Walk, Dundalk, Co. Louth.

Lee, Alec

88 Elm Park, Clonmel, Co. Tipperary.

Lynch, John K.

Mentrim Mills, Drumconrath, Co. Meath.

Macks Amusements

Main Street, Bundoran, Co. Donegal.

McDaid, Bobby

4 Main Street, Letterkenny, Co. Donegal.

McEniff, Brian

Great Northern Hotel, Bundoran, Co. Donegal.

McMahon, Michael

West End, Bundoran, Co. Donegal.

McKenna, Colm

Muff, Co. Donegal.

National Association for the Mentally Handicapped of Ireland

5 Fitzwilliam Place, Dublin 2.

National Lottery

Abbey Street, Dublin 1.

Navan Road Community Council

10 Glendhu Park, Navan Road, Dublin 7.

Olympic Sport & Leisure

Dublin Road, Tuam, Co. Galway.

Phoenix Park Racecourse Preservation Association

4 Martin Savage Park, Ashtown, Dublin 15.

Playprint Ltd.

St. Ignatius Road, Dublin 7.

Racing Club of Ireland Ltd., The

15 Eden Park Avenue, Goatstown, Dublin 14.

Rainbow Amusements Ltd.

Crock of Gold, Courtown, Co. Wexford.

Rehab Group

Roslyn Park, Beach Road, Sandymount, Dublin 4.

Salthill Amusements Limited

Salthill, Galway.

Seaside Amusement & Funfair Association

231 Swords Road, Dublin 9.

Silver Dollar

65 Parnell Street, Ennis.

Sinnott, Patrick

Ounavarra Road, Courtown HBR, Co. Wexford.

Sinnotts Amusement Centre

Courtown Harbour, Gorey, Co. Wexford.

Star Vale Management & Technologies Ltd.

Centurion House, Centurion Way, Farington, Leyland, Lancs. PR5 2GR.

West Dublin Action Group

44 Deerpark Road, Castleknock, Dublin 15.

Appendix 4

(b) List of persons and bodies who made submissions by e-mail

At Your Leisure Ltd.,

9 Grattan Square, Dungarvan, Co. Waterford.

Flanagan, Brian

Ardeelan, Shore Front, Buncrana,
Co. Donegal.

Flanagan, Paddy

Hospital Street, Kildare.

McCullagh. P.C., Michael

Auctioneer & Valuer, Estate Agent, 5 Society
Street, Ballinasloe, Co. Galway.

McEniff, Sean

Chairman Bundoran UDC, Dinglei Cough,
Bundoran, Co. Donegal

MD Associates

Publishers, Exhibition Organisers &
Consultants, Enterprise Centre, Melitta Road,
Kildare.

O'Mahoney, John

Turf Club, The

The Curragh, Co. Kildare.

Appendix 4

(c) List of persons and bodies who made oral submissions

Bird, William

The Stella, 16 Shannon Street, Limerick.

Casinos Austria AG

c/o Valentine Keating & Associates, Malahide,
Co. Dublin.

Charity Lotteries in Ireland, Association of

26 Merrion Square, Dublin 2.

Cumann Lúthchleas Gael

Páirc an Chrócaigh, Átha Cliath 3.

Hallinan P.C., Michael

78 St. Laurences Road, Clontarf, Dublin 3.

Ireland Against Casinos

5 College Park, Castleknock, Dublin 15.

Irish Cancer Society

5 Northumberland Road, Dublin 4.

Kimble Manufacturing Ltd.

Bachelors Walk, Dundalk, Co. Louth.

McDaid, Bobby

4 Main Street, Letterkenny, Co. Donegal.

National Association for the Mentally Handicapped of Ireland

5 Fitzwilliam Place, Dublin 2.

National Lottery

Abbey Street, Dublin 1.

Playprint Ltd.

St. Ignatius Road, Dublin 7.

Rehab Group

Roslyn Park, Beach Road, Sandymount,
Dublin 4.

Appendix 5

(a) Local authorities who have a resolution in force adopting Part III of the Gaming and Lotteries Act, 1956

1	Arklow UDC Adopted 9 March 1994	16	Cootehill Town Commissioners Adopted 12 July 1976
2	Balbriggan Town Commissioners Adopted 9 February 1999	17	Cork Corporation Adopted 10 April 1956
3	Ballina UDC Adopted 7 June 1984	18	Cork County Council Adopted 16 January 1984
4	Ballyshannon Town Commissioners Adopted 3 April 1956	19	Drogheda Corporation Adopted 1 May 1956
5	Belturbet Town Commissioners Adopted 14 November 1962	20	Dundalk UDC Adopted 26 June 1984
6	Bray UDC Adopted 10 February 1998	21	Dungarvan UDC Adopted 21 December 1962
7	Bundoran UDC Adopted 14 June 1974	22	Ennis UDC Adopted 1 June 1956
8	Carlow County Council Adopted 4 June 1956	23	Fermoy UDC Adopted 19 May 1981
9	Carlow UDC Adopted 1 May 1956 Rescinded 27 October 1981 Adopted 24 November 1981(part) 23 August 1983 (part)	24	Fingal County Council Adopted 6 July 1993 Rescinded 25 July 1989 (part)
10	Castleblaney UDC Adopted 26 June 1956 Rescinded 23 January 1996 Adopted 23 January 1996(part)	25	Galway Corporation Adopted 8 September 1986
11	Cavan County Council Adopted 14 July 1956	26	Kerry County Council Adopted 20 August 1956 Rescinded 20 September 1976 (part)
12	Cavan UDC Adopted 3 August 1965	27	Kildare County Council Adopted 29 October 1956
13	Clare County Council Adopted 14 May 1956	28	Kilkee Town Commissioners Adopted 7 May 1956
14	Clones UDC Adopted 17 August 1956	29	Limerick Corporation Adopted 22 May 1956
15	Clonmel Corporation Adopted 6 March 1984 Rescinded 18 December 1990 (part)	30	Limerick County Council Adopted 26 May 1956
		31	Louth County Council Adopted 25 June 1956
		32	Meath County Council Adopted 7 May 1956
		33	Mhuine Bheag Town Commissioners Adopted 5 July 1956

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- 34 Nenagh UDC**
Adopted 31 July 1957
- 35 Sligo County Council**
Adopted 30 June 1956 (part)
(also adopted on other dates for other areas in the District)
- 36 Tipperary UDC**
Adopted 7 September 1959
- 37 Tramore Town Commissioners**
Adopted 2 September 1986,
Rescinded 3 May 1988 (part)
- 38 Waterford Corporation**
Adopted 14 May 1956
Rescinded 15 February 1988 (part)
Adopted 14 March 1994 (part)
- 39 Waterford County Council**
Adopted 9 July 1956
- 40 Wexford Corporation**
Adopted 7 May 1956
- 41 Wicklow UDC**
Adopted 5 June 1956
- 42 Youghal UDC**
Adopted 3 May 1956
Rescinded 9 October 1980
Adopted 8 March 1999 (part)

Appendix 5

(b) Local authorities who do not have a resolution in force adopting Part III of the Gaming and Lotteries Act, 1956

1 Ardee Town Commissioners

Never Adopted

2 Athlone UDC

Adopted 17 April 1956
Rescinded 7 July 1986

3 Athy UDC

Never Adopted

4 Ballinasloe UDC

Never Adopted

5 Ballybay Town Commissioners

Never Adopted

6 Bandon Town Commissioners

Never Adopted

7 Bantry Town Commissioners

Never Adopted

8 Birr UDC

Never Adopted

9 Boyle Town Commissioners

Never Adopted

10 Buncrana UDC

Adopted 9 May 1956
Rescinded 9 April 1986

11 Carrick-on-Suir UDC

Never Adopted

12 Carrikmacross UDC

Never Adopted

13 Cashel UDC

Never Adopted

14 Castlebar UDC

Never Adopted

15 Clonakilty UDC

Never Adopted

16 Cobh UDC

Never Adopted

17 Donegal County Council

Adopted 30 June 1956
Rescinded 19 December 1986

18 Droichead Nua Town Commissioners

Never Adopted

19 South Dublin County Council

Never Adopted

20 Dublin Corporation

Adopted 9 April 1956
Rescinded 27 January 1986
5 January 1987(for added areas)

21 Dun Laoghaire/Rathdown County Council

Adopted 9 April 1956
Rescinded 25 July 1989

22 Edenderry Town Commissioners

Never Adopted

23 Enniscorthy UDC

Never Adopted

24 Galway County Council

Never Adopted

25 Gorey Town Commissioners

Never Adopted

26 Granard Town Commissioners

Never Adopted

27 Greystones Town Commissioners

Never Adopted

28 Kells UDC

Adopted 4 February 1963
Rescinded 16 June 1986

29 Kilkenny Corporation

Never Adopted

30 Kilkenny County Council

Never Adopted

31 Killarney UDC

Adopted 4 May 1956
Rescinded 4 September 1978

32 Kilrush UDC

Never Adopted

33 Kinsale UDC

Never Adopted

Appendix 5

34	Laois County Council Never Adopted	51	Naas UDC Adopted 15 May 1956 Rescinded 23 March 1976
35	Leitrim County Council Never Adopted	52	Navan UDC Adopted 5 June 1956 Rescinded 31 March 1980
36	Leixlip Town Commissioners Adopted 29 October 1956 Rescinded 2 April 1991	53	New Ross UDC Never Adopted
37	Letterkenny UDC Adopted 11 June 1956 Rescinded 13 November 1989	54	Offaly County Council Never Adopted
38	Lismore Town Commissioners Never Adopted	55	Passage West Town Commissioners Never Adopted
39	Listowel UDC Adopted 2 November 1956 Rescinded 12 February 1980	56	Portlaoise Town Commissioners Adopted 8 October 1984 Rescinded 18 February 1986
40	Longford County Council Never Adopted	57	Roscommon County Council Adopted 24 June 1963 Rescinded 25 September 1989
41	Longford UDC Never Adopted	58	Shannon Town Commissioners Never Adopted
42	Loughrea Town Commissioners Adopted 11 July 1956 Rescinded 11 February 1985	59	Skibbereen UDC Never Adopted
43	Macroom UDC Never Adopted	60	Sligo Corporation Adopted 2 July 1956 Rescinded 14 January 1985
44	Mallow UDC Never Adopted	61	Templemore UDC Never Adopted
45	Mayo County Council Never Adopted	62	Thurles UDC Adopted 18 September 1961 Rescinded 5 March 1984
46	Midleton UDC Adopted 12 June 1956 Rescinded 13 May 1980	63	Tipperary (NR) County Council Adopted 21 August 1956 Rescinded 19 June 1984
47	Monaghan County Council Never Adopted	64	Tipperary (SR) County Council Adopted 4 June 1956 Rescinded 12 March 1979
48	Monaghan UDC Adopted 8 June 1970 Rescinded 21 April 1986	65	Tralee UDC Never Adopted
49	Mountmellick Town Commissioners Never Adopted	66	Trim UDC Adopted 23 January 1963 Rescinded 11 December 1979
50	Mullingar Town Commissioners Adopted 6 February 1970 Rescinded 14 May 1982		

Appendix 5

- 67 Tuam Town Commissioners**

Never Adopted

- 68 Tullamore UDC**

Adopted 14 February 1963
Rescinded 8 May 1986

- 69 Westmeath County Council**

Never Adopted

- 70 Westport UDC**

Never Adopted

- 71 Wexford County Council**

Never Adopted

- 72 Wicklow County Council**

Adopted 16 April 1956
Rescinded 13 February 1989

Appendix 6

(a) Gaming (premises) licences issued (by the Revenue Commissioners) and excise receipts, 1957 - 1998

Year	No. of licences issued	Excise receipts £	Year	No. of licences issued	Excise receipts £
1957	86	2,170	1978	271	23,500
1958	79	2,140	1979	332	27,450
1959	90	2,190	1980	379	44,395
1960	84	2,140	1981	398	67,925
1961	88	2,140	1982	394	70,675
1962	123	3,140	1983	470	99,375
1963	117	3,250	1984	480	101,725
1964	110	2,840	1985	491	101,925
1965	102	2,440	1986	451	91,625
1966	57	1,630	1987	315	60,975
1967	72	1,950	1988	288	56,850
1968	52	1,630	1989	318	53,350
1969	43	1,170	1990	263	55,571
1970	53	1,470	1991	238	54,950
1971	62	2,120	1992	237	58,825
1972	66	2,040	1993	220	61,565
1973	57	1,980	1994	186	64,675
1974*	126	4,300	1995	173	113,900
1975	131	10,850	1996	187	61,625
1976	149	13,100	1997	160	50,125
1977	202	17,675	1998	166	52,500

* From 31 December 1974 figures were compiled on a calendar year basis.

Appendix 6

(b) Gaming (premises) certificates issued by the District Courts, 1997 and 1998

District Court Office	Number		District Court Office	Number	
	Year ending July '97	Year ending July '98		Year ending July '97	Year ending July '98
Athlone	0	0	Letterkenny	0	0
Ballina	13	10	Limerick	6	8
Ballinasloe	3	1	Listowel	8	1
Bandon	0	1	Longford	1	1
Bray	5	1	Loughrea	1	0
Carlow	4	4	Mallow	0	0
Carrick-on-Shannon	0	0	Monaghan	6	4
Castlebar	0	0	Mullingar	0	0
Cavan	6	6	Naas	2	0
Clonmel	2	1	Nenagh	0	0
Cork	9	11	Portlaoise	1	1
Derrynea	0	0	Roscommon	1	2
Donegal	7	9	Sligo	4	4
Drogheda	8	9	Thurles	0	0
Dublin	4	4	Tralee	1	0
Dundalk	8	6	Trim	6	1
Ennis	13	16	Tuam	2	4
Fermoy	0	0	Tullamore	0	0
Galway	5	6	Waterford	12	12
Gorey	4	8	Wexford	10	7
Kilkenny	0	0	Youghal	2	8
Killarney	3	3	Total	157	149

Appendix 6

(c) Gaming machine licences and excise receipts, 1975 - 1998

Year ended 31 December	Number of licences Issued	Excise receipts (£)	Year ended 31 December	Number of licences issued	Excise receipts (£)
1975	195	62,438	1987	632	1,176,987
1976	297	91,375	1988	470	924,635
1977	332	119,302	1989	522	764,713
1978	431	143,373	1990	363	779,749
1979	375	179,700	1991	392	781,060
1980	408	390,237	1992	370	894,535
1981	583	443,798	1993*	9,224	1,042,020
1982	552	644,514	1994	8,287	972,920
1983	672	1,028,792	1995	8,378	1,040,120
1984	696	1,301,710	1996	10,153	1,163,915
1985	806	1,581,123	1997	10,575	1,145,125
1986	732	1,196,703	1998	10,530	1,190,000

*With effect from 1993 a licence was required for **each** machine. Prior to this **single** licences had been issued to each operator in respect of a **number of machines**.

(d) Rates of gaming (premises) licence duty, 1992 - 1999

Period of licence	£
Not exceeding 3 months	125
Exceeds 3 months but not exceeding 6 months	250
Exceeds 6 months but not exceeding 9 months	375
Exceeds 9 months	500

(e) Rates of gaming machine licence duty, 1992 - 1999

Period of licence	Full week £	Week-end £
Not exceeding 3 months	100	25
Exceeds 3 months but not exceeding 6 months	200	50
Exceeds 6 months but not exceeding 9 months	300	75
Exceeds 9 months	400	100

Appendix 7

(a) Occasional lottery permits issued by An Garda Síochána (s. 27 of the 1956 Act)

Year	1997	1998
Number Issued	6,117	5,786

(b) Periodical lottery licences issued by the District Courts (s. 28 of the 1956 Act)

District Court office	No. issued year ending July '97	No. issued year ending July '98	District Court Office	No. issued year ending July '97	No. issued year ending July '98
Athlone	39	32	Letterkenny	63	66
Ballina	31	34	Limerick	59	67
Ballinasloe	19	24	Listowel	21	22
Bandon	35	42	Longford	28	37
Bray	31	32	Loughrea	12	8
Carlow	36	44	Mallow	26	27
Carrick-on-Shannon	15	19	Monaghan	21	26
Castlebar	53	49	Mullingar	35	31
Cavan	56	62	Naas	43	40
Clonmel	55	51	Nenagh	15	9
Cork	30	19	Portlaoise	39	41
Derrynea	10	5	Roscommon	26	29
Donegal	35	29	Sligo	38	35
Drogheda	10	16	Thurles	14	16
Dublin	147	145	Tralee	40	34
Dundalk	20	19	Trim	47	49
Ennis	104	132	Tuam	20	42
Fermoy	13	24	Tullamore	29	27
Galway	36	41	Waterford	33	34
Gorey	14	15	Wexford	62	74
Kilkenny	46	36	Youghal	28	20
Killarney	30	32	Total	1,564	1,636

Appendix 8

The Charitable Lotteries Fund table of payments

Applicant	1997 £	1998 £	1999 £
Associated Charities Trust Ltd.	39,084	46,119	45,872
Asthma Society of Ireland	78,306	101,851	96,160
COPE Foundation	260,651	243,779	127,160
Drogheda Community Services	58,336	69,333	62,916
Gael-Linn Teo	348,891	492,301	385,089
Hanly Centre	36,370	42,015	34,932
Irish Cancer Society	269,942	304,957	253,877
Irish Stroke Foundation	0	0	20,863
Irish Wheelchair Association	37,770	45,899	38,511
Liffey Trust Ltd.	61,965	60,148	46,709
Polio Fellowship of Ireland	269,942	304,956	253,877
The Rehab Group	3,090,607	3,736,642	3,634,034
Total	4,551,864	5,448,000	5,000,000

Appendix 9

(a) On-course betting turnover on horseracing 1989-1998

Year	Totalisator £mn	On-course bookmakers £mn	Total £mn	No. of meetings
1989	18.2	90.8	109.0	243
1990	19.1	103.9	123.0	244
1991	18.5	85.1	103.6	244
1992	18.9	82.3	101.2	245
1993	18.5	71.1	89.6	226
1994	19.4	67.4	86.8	237
1995	18.0	67.5	85.5	232
1996	19.5	77.1	96.6	238
1997	21.2	83.5	104.7	237
1998	23.7	92.2	115.9	239

(b) On-course betting turnover on greyhound racing 1989-1999

Year	Totalisator turnover £mn	On-course bookmaker turnover £mn	Total betting £mn	No. of meetings
1989	7.4	28.9	36.3	1,815
1990	7.0	28.8	35.8	1,839
1991	6.8	27.0	33.8	1,896
1992	6.4	23.7	30.1	1,912
1993	5.6	20.8	26.4	1,865
1994	5.6	18.5	24.1	1,808
1995	5.3	17.5	22.8	1,736
1996	6.7	17.6	24.3	1,745
1997	8.5	20.5	29.0	1,799
1998	10.0	22.2	32.2	1,818
1999	10.2*	25.9#	36.1	1,605

*1999 Totalisator turnover up to 4 December 1999

#1999 On-course bookmaker turnover up to 11 December 1999

Appendix 9

(c) Off-course betting turnover with bookmakers 1987-1999

Year	£mn
1987	194.8
1988	224.6
1989	255.6
1990	292.8
1991	303.3
1992	324.0
1993	343.3
1994	360.5
1995	382.1
1996	406.4
1997	455.2
1998	521.0
1999	733.7

Appendix 10

(a) Sales of National Lottery products, March 1987 to December 1999

Year	Instant "scratchcard" £mn	Lotto £mn	Lotto 54321 £mn	Tellybingo £mn	Total £mn
1987	102.4	0	0	0	102.4
1988	89.3	21.1	0	0	110.4
1989	77.9	62.5	0	0	140.4
1990	59.7	108.8	0	0	168.5
1991	81.1	155.4	0	0	236.5
1992	88.0	164.3	0	0	252.3
1993	93.1	178.1	0	0	271.2
1994	100.9	190.5	0	0	291.4
1995	101.2	202.0	0	0	303.2
1996	100.5	207.3	0	0	307.8
1997	101.1	213.7	9.6	0	324.4
1998	108.6	219.3	8.9	0	336.8
1999	111.1	251.9	9.5	4.9	377.4
Total £mn	1,214.9	1,974.9	28.0	4.9	3,222.7

(b) Miscellaneous statistics in relation to The National Lottery

No. of "scratchcard games" launched from March 1987 to January 2000	128
No. of retail outlets	a: lotto and scratchcards b: scratchcards only
	2,030 1,507
No. of individuals who have won prizes in excess of £1mn up to January 2000	131
Maximum prize up to January 2000	£6.2mn
No. of National Lottery employees as at February 2000	76

Appendix 11

Gaming and Lotteries Acts, 1956-86, proceedings and persons convicted

	1997	1998
Result		
Charges withdrawn or dismissed	9	20
Adjourned or otherwise disposed of	15	4
Conviction	36	96
Charges proved and order made without conviction (i.e. probation etc.)	7	16
Total number of cases taken	67	136

Appendix 12

(a) Judgement of the European Court in the Case of Schindler

Court of Justice of the European Communities

Case C-275/92

Reports of Cases before the Court of Justice and the Court of First Instance, Part 1 Court of Justice, 1994-3.

Her Majesty's Customs and Excise
V
Gerhart Schindler and Jorg Schindler

(Lotteries)

Summary of the Judgement

1. Freedom to provide services - Treaty provisions - Scope - Importation of lottery advertisements and tickets in order to enable residents of one Member State to participate in a lottery operated in another Member State - Inclusion (EEC Treaty, Arts 59 and 60)

2. Freedom to provide services - Restrictions - National legislation prohibiting lotteries - Justification - Protection of consumers and maintenance of order in society (EEC Treaty, Art. 59)

Summary - Case C-275/92 - Schindler

1. The importation of lottery advertisements and tickets into a Member State with a view to the participation by residents of that State in a lottery conducted in another Member State relates to a 'service' within the meaning of Article 60 of the Treaty and accordingly falls within the scope of Article 59 of the Treaty.

Lottery activities, as services normally provided for remuneration constituted by the price of the ticket, do not, even as regards the cross-border sending and distribution of material objects necessary for their organisation or operation, fall within the scope of the rules on the free movement of goods. Nor do they fall within the scope of the rules on the free movement of persons, or of those on free movement of capital, which concern capital movements as such and not all monetary transfers necessary to economic activities.

Moreover, their classification as services is not affected by the fact that they are subject to particularly strict regulation and close control by the public authorities in the various Member States of the Community, since they cannot be regarded as activities whose harmful nature causes them to be prohibited in all the Member States and whose position under Community law may be likened to that of activities involving illegal products.

Finally, neither the chance character of the winnings, as consideration for the payment received by the operator, nor the fact that, although lotteries are operated with a view to profit, participation in them may be recreational, nor even the fact that profits arising from a lottery may generally only be allocated in the public interest, prevents lottery activities from having an economic nature.

2. National legislation which prohibits, subject to specified exceptions, the holding of lotteries in a Member State and which thus wholly precludes lottery operators from other Member States from promoting their lotteries and selling their tickets, whether directly or through independent agents, in the Member State which enacted that legislation, restricts, even though it is applicable without distinction, the freedom to provide services.

However, since the legislation in question involves no discrimination on grounds of nationality, that restriction may be justified if it is for the protection of consumers and the maintenance of order in society.

The particular features of lotteries justify national authorities having a sufficient degree of latitude to determine what is required to protect the players and, more generally, in the light of the specific social and cultural features of each Member State, to maintain order in society, as regards the manner in which lotteries are operated, the size of the stakes, and the allocation of the profits they yield, and to decide either to restrict or to prohibit them.

Appendix 12

(b) Judgement of the European Court in the Case of Läärä

Court of Justice of the European Communities

Press Release No 68/99

21 September 1999

Judgement in Case C-124/97

Läärä, CMS and TAS v District Prosecutor and Finnish State

The Finnish legislation relating to slot machines is not contrary to the rules on freedom to provide services

The Community provisions relating to freedom to provide services do not preclude national legislation which grants to a single public body exclusive rights to operate slot machines, in view of the public interest objectives which justify it.

In Finland, under legislation on gaming which is intended to restrict the potential profit to be made from exploitation of the desire to gamble, a single public body is authorised to organise lotteries and betting, to manage casinos and to run the operation of slot machines. The holder of the requisite administrative authorisation is obliged to collect funds for non-profit-making causes.

The public body to which such authorisation has been issued is the RAY, an association of 96 organisations operating in the fields of health and social activities.

In 1996 the English company CMS concluded a contract with the Finnish company TAS whereby the latter was given the exclusive right to install and operate in Finland slot machines manufactured and supplied at moderate prices by CMS. The contract provides that the machines are to remain the property of CMS and that TAS is to receive, by way of remuneration, a commission representing a percentage of the profit made from the machines installed.

Mr Läärä, the chairman of TAS, was fined for infringement of the Finnish legislation on gaming. In the proceedings pending before the Finnish Court of Appeal, Mr Läärä maintained that the Finnish legislation is contrary to the principles of Community law relating to the free movement of goods and services.

The national court requested the Court of Justice to rule on the question whether national legislation which grants to a single public body exclusive rights to operate slot machines for the achievement of objectives in the general public interest is contrary to, in particular, the rules on freedom to provide services.

In the Court's view, national legislation such as the Finnish legislation involves no discrimination on grounds of nationality, inasmuch as it applies without distinction to all economic operators, whether they are established in Finland or in another Member State. However, such legislation constitutes an obstacle to freedom to provide services in that it directly or indirectly prevents operators from making slot machines available to the public. Consequently, the Court examines whether that obstacle is justified under Community law.

The Court considers that it is for each Member State to assess whether, in order to achieve the objectives aimed at, it is necessary to adopt regulations imposing a code of conduct on the economic operators concerned or, alternatively, to grant an exclusive operating right to a licensed public body. Whichever option is chosen, it must, if it is to comply with Community law, be proportionate to the aim pursued.

As it is, the restriction on freedom to provide services, which is designed to limit the risk to the social order inherent in gambling, is justified, since it is intended to protect consumers. Thus, a measure whereby a Member State, instead of imposing a total ban on gaming, regulates it by means of a limited authorisation falls within the ambit of the prevention of the risk of crime and fraud involved in an activity.

Consequently, the Court has ruled that the solution adopted in Finland, namely to grant to a single public body exclusive rights to operate slot machines and to place a strict limit on the lucrative nature of that activity, is not disproportionate to the objectives pursued.

This release is an unofficial document issued for use by the media and is not binding on the Court of Justice. It is available in all the official languages.

Appendix 13

Functions appropriate to the Gaming and Lotteries Authority

General

- Informing and educating the public in the area of Gaming and Lotteries
- Advising the various interests involved in gaming and lotteries* of their legal responsibilities under the new legislation
- Producing an annual report for the Minister and the Oireachtas in relation to the activities of the Authority
- Consulting with other agencies and Government Departments as required in order to assist in the review or formulation of policy on an ongoing basis
- Carrying out regular reviews of the stake and prize levels for all gaming and lottery* activities

Gaming

- Advising the District Court on applications or renewals for gaming premises certificates
- Processing and issuing permits for temporary gaming in conjunction with carnivals etc
- Inspecting gaming premises to ensure compliance with the law in terms of age limits of patrons, stake and prize limits, siting requirements for machines etc
- Implementing and overseeing a system for (1) classification (2) certification (3) calibration and (4) monitoring the % payout, of all gaming machines.

Lotteries

- Drawing up, following appropriate consultations, of regulations governing the operation of the various forms of lotteries permitted under the new legislation
- Processing applications and issuing or refusing permits/licences for lotteries
- Vetting returns in respect of lotteries as required

Inspection and Enforcement

- Inspection and investigation of alleged unlawful gaming and lottery activities
- Carrying out checks on the suitability of operators and employees involved in gaming and lotteries activities
- Instigation of prosecutions where necessary, in conjunction with An Garda Síochána, in cases where offences are detected
- Carrying out appropriate liaison with the Revenue authorities in relation to enforcement matters

*Apart from the National Lottery