

Gaming and Gambling

An Irish Licensing Regime Draws Nearer: Work is to begin immediately on new legislation to modernise gambling laws in Ireland

The Irish Minister for Justice, Equality and Defence, Alan Shatter T.D., (the Minister) announced on Wednesday, 21 September 2011, that the Irish Government has agreed to his proposal to start work immediately on new legislation to modernise Irish gambling laws. Such a development has been expected for some time and it is now expected that the draft legislation will be ready to present to the Government in the Spring of 2012.

Comprehensive Revision of Gambling Laws

In his announcement, the Minister summed up the current situation: *"The Government agreed with me that it was long past time for a full and comprehensive revision of our gambling laws. The shortcomings in the current law, for example, the absence of any regulation of on-line gambling, are exposing young people and other vulnerable persons to unacceptable risks. The Exchequer is also being short changed because of the absence of a taxation regime for on-line and other forms of remote gambling. The present laws are not adequate to deal even with aspects of gambling which they were intended to cover. For instance attempts to curtail unlicensed private members' clubs, including prosecutions, have been unsuccessful."*

What will be in the new legislation?

The minutiae of the workings of the new licensing regime will be worked out as the legislation is being drafted, but some of the intentions of the legislation are already clear and have been announced.

The remit of the legislation will cover the following activities: betting, gaming and lotteries (other than the National Lottery). It will include remote or online gambling. It will not include on-course betting as that area is regulated in separate legislation.

The legislation will be innovative in three important areas:

- It will introduce a single updated and unified structure under the control of the Minister for Justice, Equality and Defence with responsibility for remote gambling, betting shops, gaming outlets, bingo venues and lotteries. The Minister will have full supervisory, inspection and enforcement powers, with assistance from the Garda Síochána (Irish police) as required. The licensing and supervisory functions are currently divided between two departments, Justice and Finance.
- It will establish arrangements for the licensing of remote operators, i.e. those who provide services online, by phone or interactively. Once licensed, the remote operators can be brought within the taxation code as it applies to gambling. The taxation of gambling will continue to be the responsibility of the Minister for Finance and the Revenue Commissioners.
- It will provide for the licensing and operation of casinos on a modest scale. The legislation will stipulate the maximum number to be permitted nationally. Anomalies that exist in the present law, and which enable certain types of club to operate, will be removed. (This seems to be an obvious reference to private member club casinos.)

In the case of all gambling services to be covered by the new legislation, a licence will be issued only where the applicant satisfies the Minister in relation to his personal suitability, financial resources, tax compliance, previous record as a licence holder (whether in Ireland or elsewhere) and criminal history (if any). The verification checks will be made with relevant authorities at home and abroad. Specific and additional requirements may apply to different categories e.g. casinos. Owners, managers and senior operatives will require individual licences, which will be connected to their particular roles, duties and responsibilities.

The legislation will have provisions to protect minors and other vulnerable persons. Operators who breach such safeguards will risk losing their licence.

The legislation may provide powers for the Minister to impose a levy to support research, educational programmes or treatment facilities for problem gamblers. This is only likely to occur if the Minister was to form the view that any fund established by the operators themselves was inadequate.



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It is of particular interest that the Minister stated that no provision would be made for large resort style casinos, but that some casinos of modest size would be permitted. In addition, the Minister added that the new legislation will prohibit fixed odds betting terminals (FOBTs). He said the Government was satisfied that their prohibition was in the public interest. This will be seen as a blow to the bookmaking industry who have been lobbying for the introduction of fixed odds betting terminals in an attempt to compete with online and mobile operators.

Conclusion

This announcement is a major development for the gaming and gambling sector. It is to be welcomed in so far as it should bring a degree of legal certainty to an area which has been rather murky in terms of attempting to apply an outdated legal framework to an innovative sector that embraces modern technology.

However, there will be disappointment for some in the industry over the Minister's decision to rule out large, resort style casinos and fixed odds betting terminals.

Businesses need legal certainty and so it is, overall, a welcome development.

Previous reports published by the Department of Justice, Equality and Defence namely "*Regulating Gaming in Ireland*" (July 2008) and "*Options for Regulating Gambling*" (December 2010) recommended a radical overhaul of Betting Act 1931 and the Gaming and Lotteries Acts 1956–1986 and the implementation of a proper licensing regime. The Minister stated that "*The series of decisions taken by the Government will bring clarity and certainty. This will assist anyone planning to locate business here. They can be assured they will be operating within a comprehensive, modern regime*".

For more information please contact



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