

# **Gambling Control Bill 2013**

## **General Scheme\***

July 2013

\* This document has no legal effect. It contains proposals for the licensing and regulation of gambling in Ireland. Draft legislation will be prepared on the basis of these proposals, for presentation to the Oireachtas and enactment.

\*\* While the Tote is not covered by the Scheme, it is intended to include it in due course, following further examination.

## • Introduction

This Scheme proposes a new and comprehensive framework for the regulation (including licensing) of gambling in Ireland. On enactment the Gambling Control Bill will replace present legislation, in particular the Betting Act 1931 and the Gaming and Lotteries Act 1956. It will provide a unified legal basis as well as streamlined and more effective administrative procedures. It will be possible to adjust and respond more quickly to technological developments.

The proposals in the Scheme are guided by the widely accepted principles of gambling regulation, i.e. to ensure:

- fairness in the conduct of gambling,
- the protection of vulnerable persons, including children, from risks to their well being arising from gambling,
- the avoidance of circumstances where gambling could, inadvertently or otherwise, facilitate or enable criminal or illegal activity,
- consumer choice and protection.

The Scheme proposes that the Minister for Justice & Equality is to be the sole licensing authority and regulator. The Minister's executive functions are to be carried out on his / her behalf by a new dedicated Office located within the Department of Justice and Equality.

The Minister, as the licensing authority, will be empowered to issue licences for all forms of gambling, including casinos and remote services (e.g. betting over the internet).

In addition to licensing, the Minister as regulator will have the responsibility for monitoring the gambling industry and for the enforcement of the new Act's provisions.

However, the licence holders and operators of gambling services will be expected to demonstrate by the manner in which they operate, a commitment to actively implement and promote the objectives of the new legislation.

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# Gambling Control Bill 2012

## General Scheme

### Part 1: General and Introductory

#### Head 1: Definitions and interpretation

In this Act, unless it is indicated to the contrary,

*“amusement hall” / “amusement arcade”* means any covered area having amusement machines only, and which is open to young persons as well as adults.

*“amusement machine”* means

- (i) a mechanical, electrical or electronic machine or device, operated by the insertion of a player card, a coin, a token, a credit or debit card or by the use of credits,
- (ii) being a machine that is intended exclusively for amusement purposes,
- (iii) where, if the player obtains anything representing money, goods or any other benefit other than the opportunity to continue to use the machine, it is of nugatory value.

*“assigned”* means an officer of the Minister who has been designated under Head 6 and who, as a result, becomes a staff member of OGCI and in that capacity carries out the functions of the Minister under this Act while reporting to the Chief Officer.

*“authorised officer”* means an officer of the Minister appointed under Head 54.

*“bet”* means to make a wager, and cognate words shall be construed accordingly.

*“betting”* means making or accepting a bet (including when made or accepted through a betting service or a betting exchange) on

- (i) the outcome of a race, competition or other event or process, including virtual events,
- (ii) the likelihood of anything occurring or not occurring, or
- (iii) whether anything is or is not true,

and includes pool betting.

*“betting service”* means a service for the placing, making, receiving or acceptance of bets and may include the services of a betting exchange (as well as direct service providers).

*“betting exchange”* means a facility that enables persons to

- (i) place or accept, through the betting exchange operator, bets with other persons; or the likelihood of anything occurring or not occurring, or
- (ii) place with the betting exchange operator bets that, on acceptance, are matched with opposing bets placed with and accepted by the operator (so as to offset all risk to the operator).

*“bingo”* has the meaning as given by Head 20.

*“casino”* means

- (i) a facility of a size not exceeding the prescriptions of this Act and
- (ii) offering games and related facilities that comply with this Act and with any Orders made thereunder and
- (iii) which is open to the public, subject to such restrictions on entry and good conduct as are required for the maintenance of good order.

“*casino games*” means specified table games permitted, subject to Head 18(4), (5), in casinos or in a category 2O and 2P licence.

“*charitable cause*” has the meaning as given by Head 19(3) and Head 20(5).

“*cheating*” means improving the chances of winning or of altering the outcome by deception, interference or manipulation of a game or of any equipment (including software pertaining to or used in relation to the equipment), used for or in connection with the game or with a real or virtual event on which bets are placed or are invited, and includes attempts and conspiracy to cheat.

“*chief officer*” means the Chief Officer of OGCI.

“*circus*” means a travelling company offering public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals.

“*designate*” has the meaning as outlined in Head 6.

“*fixed odds betting*” is a process of placing bets at pre-determined odds offered by a bookmaker, or on a betting exchange. In such an arrangement, the return to the player will be unaffected by any fluctuation in odds.

“*fixed odds betting terminal*” is an electromechanical device that:

- allows players to bet high stakes, at a high frequency, on the outcome of various games and events with fixed odds,
  - where the games and events are in virtual format, and
  - include such games as would be available in the premises of a holder of a licence in the 2R category [casino games],and
- where the outcome of events is pre-determined by a random number generator, generally located on a server separate to where the terminal is located.

“*funfair*” means a fair consisting wholly or principally of the provision of amusements.

“*game of chance*” includes a game in which the player participates and that has one or more of the following features:

- (i) involves both an element of chance and an element of skill,
- (ii) involves an element of chance that can be eliminated by superlative skill, and
- (iii) is represented as involving an element of chance,
- (iv) is a game depicting virtual sporting action.



“*gaming*” means playing for a stake a game of chance for a monetary prize or other form of reward, and includes the playing of games available in casinos.

“*gaming arcade*” means any covered area having machines, at least some of which are gaming machines, and which is not open to young persons.

“*gaming machine*” means a machine constructed or adapted for playing a game of chance for reward by means of it having a slot or other aperture for the insertion of a player card, cash, tokens, and subject to the terms of the licence, credit cards or debit cards.

“*gaming service*” means any service that is required for or comprises any component of the activities of gaming and may be provided by an intermediary.

“*gambling*” means

- (i) gaming,
- (ii) betting,
- (iii) participating in a lottery,
- (iv) participating in a bingo,
- (v) amusements.

“*gambling contract*” has the meaning given by Head 83.

“*gambling service*” means either a “betting service” or “gaming service” as the context requires.

“*infringement*” has the meaning as given by Head 61.

“*licence*”, within the meaning of Heads 24 and 40, is an authorization to carry on or provide or make available the service or services specified in a licence issued under those Heads.

“*licence holder*” means any person (other than a child) who has been authorized to carry on or provide or make available the service or services specified in a licence.

“*licensed bookmaker*” means

- (i) a person (not being a body corporate or an unincorporated body of persons) who is the holder of a bookmaker’s licence issued under this Act, or
  - (ii) a company established under section 36 of the Irish Horseracing Industry Act 1994 to carry on business as a bookmaker that holds a licence issued under this Act,
- and where the licence is for the time being in force.

“*lottery*” has the meaning as given by Head 19.

“*local newspaper*” / “*national newspaper*” means a printed periodical publication that publishes materials about current events in a local or national context.

“*Minister*” means the Minister for Justice and Equality.

“*Office of Gambling Control, Ireland*” refers to the Executive Office established in the Minister’s Department in accordance with Part 2, and references to “Office” or “OGCI” shall be read as references to that Executive Office.

“*Order*” means an Order made by the Minister pursuant to this Act and to the Statutory Instruments Act 1947.

“*personal licence*” means a licence which

- (i) because of the position held by a person, is granted by OGCI to an individual, and
- (ii) authorises that individual to provide [specified] gambling services on behalf of a service licence holder, in accordance with a service licence.

“*player card*” has the meaning in Head 69.

“*pool betting*” is a means of betting in which all bets are pooled and winnings are paid in accordance with the size of the pool and the number of winners.

“*proceeds of sales*” has the meaning in Head 19(1) and Head 20(1).

“*public place*” means any place to which members of the public have or are permitted to have access whether as of right or as a trespasser or otherwise and whether subject to or free of charge and includes open air venues and any offices, courts, yards and gardens which are occupied together with and are within the curtilage, or in the immediate vicinity, of the public place where gaming machines are located.

“*qualifying officer*” has the meaning as given by Head 25.

“*record*” means a document, or an object, in any form (including any electronic form) that is, has been or ought to have been, kept by reason of:

- (i) any information or matter that it contains or that can be obtained from it; or
- (ii) its connection with any event, person, circumstance or thing.

“*register*” has the meaning given in Head 22.

“*remote gambling*” means gambling in which persons participate by the use of remote communication.

“*remote communication*” means communication using

- (i) the internet
- (ii) telephone
- (iii) television
- (iv) radio, or
- (v) any other kind of electronic or other technology for facilitating communication.

“*scratch card*” has the meaning as given by Head 19.

“*service licence*” means a licence which

- (i) is granted by OGCI to a gambling service provider, and
- (ii) authorises that provider to supply gambling services in accordance with that licence.

“*self-exclusion*” has the meaning as given by Head 71.

“*spread betting*” is a form of gambling in which stakes are placed not on the results of contests but on the number of points scored etc. Winnings and losses are calculated according to the accuracy or inaccuracy of the prediction.

“*stake*” means a payment made for a right to play or as a condition of taking part in a game, but does not include payment for using facilities provided for the playing of the game. [Gaming and Lotteries Act 1956]

“*table*” means, as the circumstances require, a table used for gambling which may be equipped with a gameboard and slots for chips or a table on which cards or roulette are played.

“*table games*” means games played on a table as defined in this Act.

“*young person*” means an individual who is less than 18 years old.

## **Head 2: Commencement, transition, short title**

### (1) Commencement

- (i) Subject to (iii) and (iv), this Bill may be commenced all together or on more than one date, as may be appropriate.
- (ii) Where the provision to be commenced entails the award of licences by OGCI, the Commencement Order shall be made by the Minister at least three calendar months ahead of the date on which the particular licences or category of licences are due to become operative and OGCI may, in the period between the making of the Order and the operative date for the licences in question, receive and process applications for the licences and may inform the successful and unsuccessful applicants of the outcome.
- (iii) Where the Bill refers to Orders (to implement particular provisions), they are to be laid by ‘negative vote’ procedure (i.e. they come into force unless voted down within a specified number of sitting days).
- (iv) Note also Head 80 re: Social Fund commencement – Part 7 will be brought into force as set out in that Head.
- (v) Licensing systems under an enactment listed in Head 82 shall not be repealed until the corresponding arrangements under this Act are commenced.

### (2) Transition

- (i) **Betting:** Any licence issued under the Betting Act and which is in place / current at the commencement of this Act remains valid until it expires and the conditions, terms, duties and liabilities (including proceedings for any breach) under which it was issued continue to apply.
- (ii) **Gaming:** Any licence issued under the Gaming and Lotteries Act 1956, and which is in place / current at the commencement of this Act remains valid until it expires and the conditions, terms, duties and liabilities (including proceedings for any breach) under which it was issued continue to apply.
- (iii) **Amusements:** Any licence issued under the Finance Act 1992, Part II, Chapter III and which is in place /current at the commencement of this Act remains valid until it expires and the conditions, terms, duties and liabilities (including proceedings for any breach) under which it was issued continue to apply.
- (iv) Proceedings in train at commencement under any of the Acts at (i) – (iii) above shall not be affected by new Act, i.e. they proceed to conclusion.

- (v) Proceedings may be initiated under the 1931 and 1956 Acts or Part II, Chapter III of the 1992 Act by the authority that had prosecutorial powers under the relevant Act after commencement of this Act where they relate to events occurring before the commencement day or arise from / relate to a licence coming within (i), (ii) or (iii) above, i.e. licences awarded before and continuing in force on and after the commencement of new Act.
- (vi) Having a betting or gaming licence
  - (a) immediately prior to the time of commencement, or
  - (b) at that time, or
  - (c) by virtue of (i), (ii) or (iii) above, immediately following commencement of this Act
 does not confer any expectation, entitlement or presumption as to the granting of a licence under this Act in relation to the same or similar service.

(3) Short Title

This [Act] may be cited as the Gambling Control Act [2013].

### **Head 3: Permitted gambling**

(1)

- (i) This Act applies to all forms of gambling available by any means to or taken part in by persons in the State.
- (ii) This Act shall also apply to the extent prescribed by the Act to gambling services originating in or made available from, through or by services located in the State, even where the gambling service in question is not available to persons in the State.

(2) Gambling, other than as permitted by the measures at (3), shall not be carried on except as permitted by this Act or as specified in Orders made thereunder.

(3) The operations mentioned under the following Acts are unaffected by this Act;

- (i) Horseracing Industry Act 1994 and the Horse and Greyhound Racing Act 2001, in relation to gambling under the auspices of Horse Racing Ireland,
- (ii) Greyhound Industry Act 1958, in relation to gambling under the auspices of Bord na gCon (Irish Greyhound Board),
- (iii) National Lottery Act 2013, in relation to the National Lottery,
- (iv) Financial Spread betting under the Financial Regulator / Central Bank,
- (v) Finance (Miscellaneous Provisions) Act 1956 (Part V) in relation to Prize Bonds,
- (vi) Street and House to House Collections Act 1962 (as last amended by the Charities Act 2009) in so far as collections authorised in accordance with that Act are concerned.(vi)

### **Head 4: Primary purposes**

The powers, duties and functions of the Minister as set out in [this Act] are for the purpose of ensuring:

- (i) fairness in the conduct of gambling,
- (ii) the protection of vulnerable persons, including children, from risks to their well being arising from gambling,
- (iii) the avoidance of circumstances where gambling could, inadvertently or otherwise, facilitate or enable criminal or illegal activity,

- (iv) consumer choice and protection.

## **Part 2: Minister and Office for Gambling Control Ireland**

### **Head 5: Functions of the Minister**

(1)

- (i) With the exceptions mentioned in Head 3(3), the Minister is the sole authority for the licensing of gambling and he / she has exclusive authority to grant, renew, revoke and revise any licence (including its terms and conditions, if any) or any category of licence provided for by this Act.
- (ii) The Minister shall have the incidental and consequential powers provided for in this Act, including the making of Orders, for the purposes of ensuring compliance with Head 4 generally and, specifically, with a licence, where granted, or to prevent gambling in the absence of or in contravention of a licence.

(2)

- (i) The Minister shall regulate gambling generally in order to achieve a high degree of compliance and may undertake or have undertaken such inspections and other measures with the aim of verifying compliance with the licence and the Act.
- (ii) He / she may discharge this function by
  - (d) Issuing, or having issued, Codes of Practice
  - (e) Issuing, or having issued, Codes of Conduct
  - (f) Making Orders that relate to compliance and standards and that may specify matters in relation to games and machines, including
    - standards and types of software,
    - records of maintenance, including where seals were placed,
    - calibration checks,
    - other technical standards,
    - standards for recording of transactions (either electronically and by other means) and for
    - improving staffing capabilities.

(3)

- (i) The Minister may issue policy directions, and they shall be taken into account in the award of licences and in the implementation of the Act generally.
- (ii) The policy directions shall be based on some or all of the following:
  - (a) the protection of society generally from the ill-effects of gambling,
  - (b) the maintenance of social cohesion,
  - (c) the protection of vulnerable persons,
  - (d) securing and maintaining consumer choice in the provision and availability of gambling services,
  - (e) the protection of the State's revenues,
  - (f) the promotion of innovation and technology through employment and research.
- (iii) Having regard to, inter alia, the report referred to in Head 7(2) (i), the Minister's Directions may address or respond to national or regional patterns in licensing that he / she believes are not in the public interest, including consumer choice and the Directions may relate to the service being provided or to aspects of it, including the capacity or number of gambling machines of a class or type being provided.

## **Head 6: Minister to designate officers and certain functions**

(1) The Minister [shall] / [may], upon commencement of this Part and as appropriate thereafter, designate certain of his / her officers to discharge on behalf of the Minister certain responsibilities, functions, powers and duties of the Minister under this Act.

(2) The Minister may, with the consent of the Minister for PE & R, enter into contracts of employment with persons who are not officers of the Minister and who possess skills and qualifications required to ensure compliance with this Act and those persons shall, for the purposes of this Act [only] be officers of the Minister as if designated under paragraph 1 of this Head.

(3) Where the Minister has exercised the powers in paragraph 1, he shall organise or shall cause to be organised into a structured unit of his or her Department those officers designated under this Head and those officers shall be assigned to that unit with effect from the commencement of this Part or, as appropriate, subsequently.

(4) The unit shall be named The Office for Gambling Control Ireland (OGCI).

(5) Persons coming within paragraph 1 shall, except as provided for in this Act, in particular, in Head 9(3), in relation to the period during which that person is assigned to OGCI, retain and may rely upon their entitlements and benefits accruing to them by virtue of their status as officers of the Minister.

(6) Where paragraphs 1 and 5 have been availed of, but subject to paragraph 8, with effect from the commencement of this Part, the Minister's functions, relating to licensing and regulatory measures, (referred to in Head 5(1) and (2)), shall be carried out on his or her behalf by the OGCI and references to the Minister in this Act shall be construed as being to the OGCI, unless the context otherwise provides or requires it.

(7) The Minister shall [withdraw] [terminate] a designation (under this Head) and an assignment under paragraph 3 of this Head in the case of a person designated and assigned by the Minister upon the cessation or termination of that person's employment in the OGCI, without prejudice to the validity of acts done or actions carried out by that person while so designated and assigned.

(8) Nothing in this section shall be construed as affecting the application to this Act of the general law concerning the imputing of acts of an officer of a Minister of the Government to the Minister of the Government.

## **Head 7: Role of OGCI**

(1)

- (i) Where the delegation under head 6 has occurred and OGCI has been established in accordance with that head, the OGCI shall be the authority with primary executive responsibility for controlling gambling and it shall, in the interest of better regulation and control of gambling, develop its position and identity in that regard.

(ii) Where OGCI has been established in accordance with head 6, and notwithstanding the generality of Head 5, the OGCI shall have responsibility for the discharge of the Minister's function in relation to the implementation and enforcement of this Act.

(iii)

(a) The functions of the Minister mentioned at (ii) shall include (but are not confined to):

- the licensing of gambling and
- the consequential inspection and compliance systems.

(b) The functions may, subject to an agreement under Head 12, include undertaking functions under Part 4 at the request of and on behalf of another state, where that other state has agreed in that agreement to act in a reciprocal fashion if requested to do so by the Minister or OGCI.

(2)

(i) The OGCI, through the chief officer, shall report to the Minister at such intervals as agreed on the operation of OGCI, but, without prejudice to the requirement for more frequent reporting so as to enable the Minister fulfil his or her obligation to account to the Oireachtas, the chief officer shall report to the Minister at least three times per year.

(ii) The chief officer shall in the reports referred to at (i) provide to the Minister an analysis of developments in gambling, as it appears to the OGCI, based on its licensing and compliance activities.

(3) The Minister may require the OGCI to provide a planned programme of work for any year or shorter period and the OGCI shall take account of any observations made by the Minister on or in relation to the programme and it shall, when appropriate, amend the programme in light of the views expressed.

(4)

(i) The OGCI shall have a mission statement, which shall take account of the primary principles in Head 4.

(ii) It may have a corporate logo.

### **Head 8: Expenses [income and expenditure] of OGCI**

(1) Subject to paragraph 3 of this Head (extent to which fees fund the OGCI), expenses incurred in the operation of this Act are to be met from moneys provided by the Oireachtas and sanctioned by the Minister for Finance / PE&R.

(2) The level of funding provided under paragraph 1 shall take account of the income derived by the OGCI from fees (Part 3, Chapter 4).

(3) The expenditure of the OGCI shall be fully covered by income derived from fees.

### **Head 9: Chief officer of OGCI**

- (1) The Minister may, following consultations with the Minister for PE & R, designate [appoint] a person who is (or who, on appointment, will become) an officer of the Minister in accordance with paragraphs 1 or 2 of Head 6, as the chief officer of OGCI.
- (2) The chief officer shall hold the position in accordance with agreed terms and conditions and shall account to the Minister for the operation of OGCI. The tenure shall not exceed 7 years but may be for a shorter period. The period may be extended but by no more than 5 years.
- (3) Without prejudice to the status of persons referred to in Head 6(1) as officers of the Minister, all officers assigned to OGCI shall report to the chief officer in relation to the discharge of their functions under this Act, in accordance with agreed arrangements.
- (4)
  - (i) The Chief Officer shall be the Accounting Officer for OGCI.
  - (ii) In that capacity, the Chief Officer shall, without prejudice to his responsibilities and duties as Accounting officer, consult with the Accounting Officer for the Dept of Justice & Equality prior to any attendance before the PAC.

## **Head 10: Codes of Practice**

- (1) The OGCI may, at its own initiative or at the direction of the Minister and in accordance with the processes set out in this Head, prepare and issue Codes of Practice.
- (2) A Code's purpose shall be to aid the OGCI and licence holders in achieving compliance generally with this Act and with the primary purposes in Head 4, by providing for consistent interpretations and approaches for the execution of activities and duties specified in a licence or related to its operation,
- (3) Codes may be prepared on
  - (i) record keeping, whether manually or electronically,
  - (ii) operation and maintenance of equipment and software, including measures to prevent corruption of data, interference with seals, unauthorised calibration or recalibration,
  - (iii) maintenance and upkeep of premises,
  - (iv) staff training and awareness, with particular regard to their ability to
    - (a) monitor persons who are suspected to be underage or whose pattern of gambling is not appropriate,
    - (b) their technical knowledge and awareness about, in particular, games, stakes, winnings, the use of or access to credit,
    - (c) any other matter relevant to the promotion and maintenance of high standards by staff.
- (4) Two types of Codes may be prepared,
  - (i) Type one to address certain internal OGCI processes and procedures relating, in particular, to the receipt of licence applications, processing them and deciding on the award of licences as well as matters related to these processes and procedures,
  - (ii) Type two to set out matters relevant to good practice in carrying out operations covered by licences.
  - (iii) The OGCI shall apply the type two Code, where one exists, in the course of its inspection and compliance activities.



- (5) The OGCI shall submit drafts of all Codes it has prepared to:
- (i) the Minister,
  - (ii) the Minister for Finance,
  - (iii) [the Chairman of the Revenue Commissioners]
  - (iv) the Garda Commissioner

and it may invite the public generally or specific sectors having a direct interest or expertise in the subject area of the draft Code in question to comment on the draft and the OGCI shall review the draft in light of comments received by the deadline specified at the time of circulation [at least two, but no more than 6 months from the date of circulation].

(6) The revised draft may be submitted to the Minister and if the Minister approves it, he / she may make an Order bringing it into force.

(7) Subject to paragraph 4, a Code that is in force shall be applied by the OGCI when monitoring the execution of a licence and compliance with its terms. It shall be applied in the same manner to monitoring and compliance activities whether carried on in the State or elsewhere.

(8) A Code may be withdrawn or revoked by Order. A Code may be amended or replaced.

(9) In the event of proceedings being brought under this Act and in the event that a Code under this section relates in whole or part to the subject matter of the proceedings,

- (i) the Code shall be admissible in evidence in the proceedings, and
- (ii) shall be considered by the court,

but a breach of the Code shall not, of itself, be sufficient grounds to hold the licence holder liable or to convict him or her.

## **Head 11: Codes of Conduct**

(1) The OGCI may prepare codes of conduct for

- (i) some or all of its officers who are engaged in the assessment of applications for licences or in the monitoring and compliance activities of OGCI,
- (ii) persons holding category 1H, 2U, 2V licences (personal),
- (iii) licence holders in respect of some or all of the other categories,

for the purposes of establishing the standards expected, clarifying their respective roles and bringing a high degree of consistency in performance.

Codes shall give guidance on the application by authorised officers of the procedures in Part 4.

(2) The purposes, processes and procedures in Head 10(4) and (5), shall apply as appropriate to the development of codes of conduct.

(3) The OGCI shall set out the circumstances in which and the arrangements applicable to any person who has held a position in the OGCI who subsequently takes up employment with or provides services to a licence holder.

## Head 12: International co-operation

- (1) (i) (a) The OGCI may consult with equivalent bodies in other states on the possibility of agreements on gambling control and it shall report to the Minister on the outcome.  
(b) The Minister may propose the making of an agreement with another state to the Government.  
(c) The Government may authorise OGCI to undertake consultations on the terms of an agreement and it shall present the results to the Minister.  
(d) If satisfied with the terms, the Minister shall obtain the agreement of the Government before concluding the agreement
  - (ii) Following consultations with equivalent bodies in other states, OGCI may propose to the Minister a memorandum of understanding on some or all of the matters listed in (iii)(a), (c) - but only on 'visitor / guest' terms - and (iii)(d) and OGCI may conclude the memorandum where the Minister has consented.
  - (iii) The agreement referred to at (i) or, as the case may be, the memorandum of understanding referred to at (ii) may provide for
    - (a) The exchange of relevant information on licence holders, including applicants for a licence, including information relating to the person's previous record as a licence holder or his record in connection with the operation of gambling services,
    - (b) details of criminal convictions, and
    - (c) the carrying out of the inspection and compliance requirements in the territory of the other state party in cases where a service is provided in the territory of one state party but the holder of the licence or the facilities used for the provision of the service are located in the territory of the other.
    - (d) other matters that are designed to ensure effective administration and compliance with best practice.
  - (iv) An agreement requires the consent of the Minister and the completion of procedures under the relevant provision of Article 29.5 of the Constitution before entering into force.
- (2)
- (i) An agreement or, as the case may be, a memorandum under this section shall be based on reciprocity between the parties; the extent of the reciprocity shall be negotiated between the parties [but it may relate to rights of access to specified sites, use of powers to gain entry, to interview personnel and to view records and the collection of evidence.]
  - (ii) [subject to the terms and scope of the particular agreement, an officer of a state with which an agreement has been entered into shall have and may exercise the powers available to officers authorised under Part 4 (including the right to seek a warrant from the District Court for a warrant authorising entry).]
- (3) Paragraphs 1, 2 shall not alter existing arrangements nor prevent further bilateral or multilateral arrangements for the sharing of information or for cross-border enforcement in criminal matters. In particular, the processing of requests on matters concerning or involving the control of gambling received or issued by the State in accordance with the Criminal Justice

(Mutual Assistance) Act 2008 or in accordance with bilateral arrangements between the State and another State; those requests shall be directed / transmitted through the Minister in his / her role as the Central Authority under the 2008 Act.

(4) OGCI may seek membership of recognised international organisations in the area of gambling regulation.

### **Head 13: Annual Report and Accounts**

(1) The OGCI shall publish an Annual Report on its operations.

(2) It shall include

- (i) an audited Statement of Accounts for the year in question,
- (ii) an audited Statement of Accounts for the Social Fund (Part 7),
- (iii) details of the year's main activities.

(3) The Report shall be published and laid before both Houses of the Oireachtas by the Minister within four months of the end of the year to which it relates.

### **Head 14: Chief officer may report to Oireachtas Committees**

Notwithstanding Head 6(8),

- (i) the chief officer shall attend before an Oireachtas Committee when requested to do so and shall inform the Minister prior to the attendance.
- (ii) the chief officer may answer questions on
  - (a) matters related to the operation of Head 5(1) (award of licences) and (2) (regulatory functions),
  - (b) the Annual Report,
  - (c) Statement of Accounts,
  - (d) the operation of Head 12.
- (iii) While before a Committee, the chief officer shall not be asked and if asked, may decline to answer questions on matters of policy.

## **Part 3: Licences**

### *Chapter 1: Categories of licences*

### **Head 15: Licences, by category, that may issue under this Act**

(1)

(i)

- (a) To comply with Head 3(2) (obligation to have a licence) and pursuant to Head 6, the OGCI shall, on behalf of the Minister, issue the licences listed in Schedule 1 where the conditions and circumstances prescribed by the Act for the particular category of licence sought are satisfied.
- (b) OGCI shall in the case of each licence issued by it, set out in writing the terms, conditions, fees and any other relevant matters and the licensee shall acknowledge receipt and acceptance of the contents before a licence enters into force.

- (c) The Parties may by agreement, and as permitted by this Act, alter the terms etc after the licence has entered into force.
- (ii) The OGCI may, in the circumstances prescribed in this Act, including by way of application for a court order to like effect, revoke, revise, suspend or terminate the operation of any licence issued in accordance with this Act.
- (iii) A licence issued by the OGCI or revoked, etc by it shall be as if issued or revoked by the Minister.
- (iv) In furtherance of this Act / Head, the OGCI shall, in respect of each type, category and sub-category of licence, develop guidance notes for the benefit of applicants, setting out the requirements to be met, including, where appropriate, standards of premises, matters relating to machines and technological instruments, types and extent of records, level and competencies of staff, fees, social responsibility requirements, infringements and offences.

(2) An application for a licence shall be assessed on the criteria established by this Act, without reference to other current or repealed enactments, except as may be provided by this Act.

#### **Head 16: Registration required in certain cases**

- (1) Where a facility
  - (i) is located in the State and
  - (ii) it is a facility without which a remote gambling service could not be made available to players but
  - (iii) where the service in question is not available to players located in the State,

that facility

- (i) does not require a licence under this Act,
  - (ii) but it must register with the OGCI (and pay such fees as may be required),
  - (iii) is subject to Part 4 of this Act and it shall facilitate the OGCI in discharging its functions under that Part,
  - (iv) may also be the subject of compliance requirements under Head 12.
- (2) The following are required to register with OGCI:
  - (i) any person supplying equipment or machines for use by members of the public in connection with gambling,
  - (ii) any person supplying services to licence holders under this Act, including accounting services, software packages, storage facilities.
  - (iii) any person providing maintenance services to licence holders in respect of calibration, software.
- (3)
  - (i) Part 4 (inspections, etc) shall apply to paragraph 2.
  - (ii) A person to whom paragraph 2 applies and who fails to register is guilty of an offence and the penalties in Schedule 5 apply.
  - (iii) Head 62(iv), (v) may be applied where appropriate to persons mentioned at paragraph 2.

(4) OGC I shall establish the procedures for applications and their assessment by reference to the procedures for licences but with such variations as OGC I considers appropriate.

### **Head 17: Specific matters affecting particular activities and licences**

(1) Category 1B

Where a category 1B licence has been issued, the OGC I may require the appointment of a person who will hold a category 1H personal licence.

(2) Category 1C

Where a category 1C licence has been issued, the OGC I shall require the appointment of one or more persons to hold personal licences under category 1H.

(3) Category 1D

- (i) A category 1D licence applies to a business operating a category 1A, 1B or 1C licence.
- (ii) A category 1D licence is required if the business is taking bets by remote means and where the value of bets received by the said premises by remote means in the preceding year is less than 25% of the aggregate value of all bets received in the premises named in the category 1A, 1B or 1C licence during that year.
- (iii) Where a category 1D licence is required, in shall be in addition to the 1A, 1B or 1C licence.
- (iv) Where the turnover from remote business exceeds 25%, a category 1E licence is required in addition to the 1A, 1B or 1C licence.
- (v) No cash transactions may take place for the remote betting.

(4) Category 1F

For the purposes of category 1F, “facility” includes a facility to deal by telephone or by electronic means with customers.

(5) Category 1G

- (i) The licence holder may reside in or outside the State.
- (ii) He / she may hold a betting licence, however described, in another jurisdiction.
- (iii) A licence under this category may be operated at any race meeting operated by, under the direction of or with the consent of Horse Racing Ireland or Bord na gCon, as the case may be.
- (iv) OGC I shall consult Horse Racing Ireland / Bord na gCon as required by Head 36(2).
- (v) A reduced licence fee may be set in cases where, other than a category 1A licence, the holder of a category 1G licence holds no other licence under this Act or in another jurisdiction, provided the licence holder operates at no more than two specified courses in the State.
- (vi) The rule against gambling by young persons shall apply to on-course betting as it does to all other forms of betting.

(6) Categories 2A and 2B

- (i) Amusement machines may be provided in a premises to which a category 2A (gaming arcade) licence is operated but a category 2B (amusement arcade) licence is not required where the number of amusement machines is 4 or less. This Act, including Part 4, will, nevertheless apply to all machines at the location.

- (ii) A young person shall not be permitted to enter the gaming arcade or play any machine in cases where (i) applies (i.e. may not play the amusement machines).
- (iii) Where category 2A and 2B licences are being operated in the same premises, or where the 2A licence is of the type coming within (i), there must be separation between the two types of machine [gaming, amusement] and there cannot be any connecting passages or doorways (even if locked) between the two facilities.

(7) Category 2E

- (i) A category 2E licence shall be subject to additional restrictions in terms of hours of availability of some or all of the gaming facilities, level of stakes, location of gaming areas vis-à-vis bars / public areas, number and type of games and machines.
- (ii) “Catering” is not the “main or only business” in any business “retailing food that is ready for consumption” if the facilities for the preparation of hot food, salads or snacks is confined to a limited part of the overall area devoted to the business being carried on at that place.

(8) Category 2G

- (i) A category 2G licence is in addition to a 1A, 1B, 1C or 1D licence.
- (ii) There shall be no cash transaction permitted for the remote gaming.

(9) Category 2S

A cruise ship is considered to be docked if it has stopped / anchored in Irish territorial seas or at a harbour in the State for the purpose of passengers dis-embarking.

(10) Category 2T

For category 2T, a passenger ferry is one that operates on a specified route under licence issued by the Department of Transport.

(11) Category 2W

- (i) This licence category covers professional gaming tournaments where table games are played.
- (ii) The licence shall be applied for by promoters / organisers of professional gaming tournaments, who are successful in being placed on a “whitelist” of approved promoters / organisers.
- (iii) Applicants for placing on the “whitelist” shall be subject to the requirements as set down in Head 29, Head 31 and Head 32. OGCI shall also conduct checks in accordance with Head 34.
- (iv) A fee shall be applied to applicants who wish be placed on the “whitelist” of approved promoters / organisers
- (v) Subsequent fees, to be decided by the Minister on a recommendation by OGCI, to be charged per event organised. Fees charged shall take account of issues such as size of event, entry fees, prizes, duration etc.
- (vi) No event shall take place unless OGCI is satisfied that the venue has a category 4B (ii) licence and that it meets the requirements of Head 26 [insurance, safety standards, etc].
- (vii) OGCI may attach such conditions as to time / hours during which the tournament may be in progress.
- (viii) The promoter / organiser or another designated office holder, at senior management level, shall be the licence holder. Head 25 to apply.
- (ix) OGCI shall decide, as appropriate, whether further (i.e. personal) licences, as set out in Head 41, are required for the duration of the tournament.

- (x) Authorised officers of OGCI shall be entitled to be present for the duration of any such tournament, in accordance with Head 56.
- (xi) In the event of gaming other than table games being provided, a category 2D licence may be required for the duration of the tournament, as deemed appropriate by OGCI.

(12) Category 4A

A category 4A licence

- (i) shall be for a maximum of 2 months from date of issue, but it may be extended, but once only, by up to one further month.
- (ii) The circumstances for issue may include facilitating the transfer of a licence under Head 25(7) or the appointment of a new qualifying officer as a licence holder (when the person has, for example, died, retired, resigned, been convicted, declared bankrupt).

(13) Category 4B (i)

This licence category is intended to cover the holding of events such as race nights, card games (not as covered by 2W licence) etc in pubs, GAA clubs etc. It is intended that the publican, designated senior officer of the club would be the licence holder for the duration of the event, the licence in any event not to exceed one week's duration.

Category 4B (ii)

This licence is designed to cover a premise that is proposed to be used for tournaments as covered by a 2W licence.

- (i) Subject to prior notification to OGCI, of a minimum of one month, of an intention to hold a tournament as covered by a 2W licence in a specified premises, authorised officers (as comprehended by Head 54) shall inspect said premises as to its suitability to hold such a tournament.
- (ii) The authorised officers shall have regard to the issues as specified in Head 18 (2) (ii) when deciding on the suitability of a premises to hold such a tournament.
- (iii) A designated office holder, at senior management level, shall be the licence holder for the duration of the tournament.

(14) Miscellaneous

Card games played on licensed premises (Intoxicating Liquor Act) shall be treated in same way as in section 9 of the Gaming & Lotteries Act 1956.

(15) Category 4C

A category 4C licence is designed to ensure a business can continue after an unexpected departure of a personal licence holder

(16) Remote playing

All transactions for remote gambling must be by electronic cash transfer.

**Head 18: Matters specific to casinos and casino games**

*Note:*

*Category 2R – land based casino*

*Category 2O – remote casino service*

*Category 2P – support service in State for remote casino.*

Part A – general matters

- (1) The Minister shall, subject to a maximum of 40, determine by Order the number of category 2R licences that may have effect at any time.
- (2)
  - (i) The OGCI shall establish criteria to apply to the distribution of the available licences nationally and regionally, to ensure reasonable access and choice.
  - (ii) The OGCI shall, in addition, prepare and publish criteria that will be taken into account in determining whether locations are, prima facie, appropriate or not appropriate for use as casinos. The suitability or otherwise of a location may be determined by the type of neighbourhood concerned, proximity to schools, medical facilities, places of worship, local authority area development plans, etc
- (3)
  - (i)
    - (a) Every application for a casino licence, type 2R, shall be subject to the requirements as set down in Head 31(1)(v) relating to planning permission.
    - (b) All applications must additionally satisfy paragraph 2(i), (ii) of this Head.
  - (ii) Each application for a 2R licence shall also comply with Heads 29 (public notice), 31 (material to accompany application) and 32 (convictions).

Part B – casino games

- (4) Casino games may be
  - (i) Played on a table in premises that have been specified in a category 2R licence and in no other place or premises, or
  - (ii) Provided in a category 2O or 2P licence, but only where the licence in question makes provision for the games, and
  - (iii) Only those games specified in the category 2O, 2P, 2R licence may be provided.
- (5)
  - (i) A casino game referred to at paragraph 4 shall be permitted until and unless it is prohibited or restricted by Order of the Minister.
  - (ii) The Minister may make an Order where he is satisfied that it is in the public interest and in the interest of customers to do so.
  - (iii) An Order may be revoked or amended where the Minister is satisfied that to do so would not represent a risk to the interests of players and society generally.

Part C – maximum / minimum permitted numbers of tables, machines

- (6)
  - (i) A category 2R licence shall specify the number of tables, subject to a maximum of 15 per licence to be designated for the playing of specified casino games, and may specify
    - (a) where these gaming tables are to be located,
    - (b) the maximum number of terminals to be permitted (that number not to exceed the number of seated places available at the tables),
      - how the gaming tables are to be concentrated,
      - the floor area to be allocated to such tables, or



any combination of the above

- (ii) the number of gaming machines allowable (as per paragraph 7, below).
  - (iii) Gaming tables shall only be permitted where a category 2R licence has been granted. Subject to the requirements of this Head, an application for a 2R licence shall only be considered whereby the premises can accommodate a minimum of 3 gaming tables.
  - (iv) In this Head “terminal” means an off-table electronic facility enabling a user who is the same premises as the one where the table in question is situated to participate in a table game simultaneously with and on the same basis as a player seated at the table.
- (7)
- (i) The OGCI may, with the approval of the Minister, set a maximum number of gaming machines to be provided in a premises specified in a category 2R licence by reference to a multiplier of the number of tables specified in the licence, but the multiplier shall not be greater than 2 per table, but the number of machines shall not in any case exceed 25.
  - (ii) The OGCI, with the agreement of the Minister, may reduce the multiplier or may decide not to avail of any multiplier (but the number of machines shall not exceed that which would have been allowed had the multiplier been applied).

#### Part D – Liquor licence

- (8)
- (i) A licence under the Intoxicating Liquor Acts may be granted in the case of a premises used or to be used as a casino but only where full and complete separation between the area used as a casino and the area licensed under the Intoxicating Liquor Acts can be ensured by adequate separation of one area from the other and on condition that the separation is capable of being and is or will be enforced outside the hours when the service in one or other area is permitted.
  - (ii) Any premises granted a 2R casino licence may be allowed to sell intoxicating liquor within specified hours. The hours shall not be outside of those set down in the Intoxicating Liquor Acts but they may be shorter than those in that Act.
  - (iii) An application for a liquor licence shall be pursued under those Acts but the OGCI shall be a notice party to any application for a licence under those Acts or to any variation of an existing licence.
  - (iv) Head 25(9) applies – requires licence holder for casino also holding Liquor licence.
  - (v) Intoxicating liquor shall not be brought into or consumed in the area reserved for casino gaming.

#### Part E – Terms and Conditions

- (1)
- (i) OGCI may make it a condition of a 2R licence that each person attending may be required to enter details in a database maintained by the licensee. It may also be a condition that the identity of each person has to be verified prior to admittance by the production of approved identity documents, including photo ID documents (passport, drivers licence).
  - (ii) The content of the material to be recorded and rights of access to it shall be in conformity with the Data Protection Acts, but the database shall be made available to OGCI upon request.

(10) Nothing in this Head shall prevent the OGC from attaching such terms and conditions as are appropriate in relation to capacity of machines, stakes, etc (see also Head 49).

Part F – offences and penalties

(11) In accordance with Head 40, it shall be an offence for persons to be employed in certain positions in a casino, without an appropriate licence. On summary conviction, the employed person and the service licence holder shall be liable to the penalties as set out in Schedule 5.

(12)

- (i) A person who makes a game available for use by customers in contravention of (5) above shall be guilty of an offence and liable to the penalties outlined in Schedule 5.
- (ii) Whether or not a person is proceeded against under this subhead and if so, is convicted, the OGC may suspend a service licence for up to 4 days where paragraph 5 has been breached.

Part G – “floating” casinos

(13)

- (i) The Chief Officer may, in accordance with Head 58, authorise or, as required, direct the taking of measures to prevent, disrupt or obstruct access to casino services that are based on a vessel located outside the State’s territorial waters, and that are being offered to persons in the State, but which does not have a licence for doing so under this Act.
- (ii) Such measures may include, in addition to those detailed in Head 58, the obtaining of an Order prohibiting the supply of any materials, relating to the casino services, to the vessel from persons based in the State.

**Head 19: Categories of lottery licences**

Part A – general lottery provisions

(1)

(a) Scope of this Head

For the purposes of this Act, “lottery” shall be taken to include any means by which a game is played, including the playing of the game by means of remote communication, but excluding any means prohibited or restricted by this Act.

(b) Definitions

- (i) For the purposes of this Act, a “lottery” means:
  - (a) a game or activity for raising money,
  - (b) in which tickets are sold and a draw is held for certain prizes,
  - (c) where the draw is a process that relies on the chance selection of numbers or other symbols or marks (or combinations thereof),

- (d) the level of the prize won by the ticket holder being determined by the extent to which the selected numbers, etc match those on the player's ticket, and
- (e) where, in cases where the numbers, etc required in order to win the top prize are not matched on any ticket or record held by a player, the top prize may, in accordance with the terms of the licence, either
- be held over until the next occasion when a draw is held, and may on that or those occasion(s) be increased, or
  - some or all of it may be added to the general pool of prizes or prize-money and distributed amongst all remaining winners, provided the limits on prize funds as specified in this Act are not exceeded.
- (ii) For the purposes of this Head, "ticket" includes any record that gives the holder a right to participate in the lottery event specified thereon.
- (c) 'Sales', 'proceeds of sales' shall be the value of the tickets entered in the draw, whether or not money was actually received.

(c) Supervision of lotteries

A draw shall be witnessed by a person who is independent, and the results of the draw shall be recorded in writing and signed by the independent witness and at least one other person present at the draw.

Part B – lotteries not requiring a licence (no linked charitable cause required)

(2)

- (a) The categories of lottery listed at (iii) (a), (b), (c) of this paragraph do not require a licence but they are subject to this Head and to Part 4 [compliance checks, etc] of this Act.
- (b) In each case in (a), (b), (c) of (iii),
- (a) the promoters shall indicate the amount retained for overheads and the amount assigned to or donated to any project, programme or registered charity, and
  - (b) the promoters, as promoters, must derive no personal gain.
- (c) Although a licence is not required, OGCI shall be notified in advance and on each occasion of a lottery as described below taking place (by a person nominated to act for the organisers / promoters):
- (a) Lotteries having a total prize fund that does not exceed €1,200 per month, and that is limited to members of a society whose purpose is not gambling or where it is limited to those working or residing on the same premises,
  - (b) Lotteries conducted in conjunction with a dance/concert or a like event where the total prize fund does not exceed €1,000,
  - (c) Lotteries in a defined [geographic] area with a maximum prize fund of €1,500 per lottery, subject to a maximum of €8,000 per three months, limited to two lotteries per month.
- (d) The OGCI shall prepare a guidance note on how the notification requirement in paragraph (iii) is to be met and it shall carry out such checks and verifications as it deems appropriate.
- (e) The following provisions may be applied to lotteries under this paragraph:

- (a) For the purpose of the checks etc referred to at (iv) above, OGCI may consult the local Garda Superintendent on matters pertaining to a lottery coming within paragraph (iii) (a), (b), (c).
- (b) The guidance referred to at (iv) shall indicate when a person acting as promoter under paragraph (2)(ii)(b) is required to provide information in relation to any personal, familial, business or commercial interest in any lottery coming within paragraph (iii)(a),(b),(c).

Part C – lotteries that require a licence (must be linked to a charitable cause)

(3) Lotteries coming within paragraphs 4, 5 and 6:

- (a) Shall be in aid of a charitable or philanthropic cause.
- (b) “Charitable or philanthropic cause” means a cause supported by or promoted by:
  - a charity registered in accordance with Part 3 of the Charities Act 2009,
  - a non-profit sports or recreational club, facility, organisation or enterprise or
  - a person or grouping (whether the grouping is permanent or temporary or ad hoc but has a defined structure) and the person or grouping has as a major purpose the relief or improvement in the material or educational facilities available to a defined group or category, whether defined by geographic location or otherwise, or the pursuit or promotion of cultural or artistic aims, or the repair or restoration of places having environmental, historical, cultural or community interest, but only where the person or grouping has adequate record keeping systems, including records of accounts.
- (c) It shall, unless, following application from the operator, it is exempted by OGCI (based on published criteria), be required to demonstrate a link between the charitable or philanthropic cause, and the locality where the lottery is to be held,
- (d) As a *minimum*, 25% of the proceeds of sales shall be allocated to charitable or philanthropic causes.

(4) (i) This section applies where the *annual* prize fund does not exceed €120,000. Subject to (ii), a maximum prize fund of €10,000 per month or €30,000 per three months shall be observed.

(ii) Notwithstanding (1) (b) (i) (e), the licence holder shall at the end of each three month period, submit to OGCI a statement of the amount paid in prizes in the three month period referred to. The statement shall explain and account for any breaches of the monthly and three monthly limits mentioned in (i) and shall identify measures taken or to be taken to ensure the annual limit is observed.

(iii) A category 2H licence applies, i.e. maximum of two years, renewable. All time periods mentioned shall be calculated from the date of issue of the licence.

(iv) OGCI may consult An Garda Síochána before a licence is issued and at any time while the licence is in place. The consultation shall be for the purposes of verifying information supplied by the licence applicant or holder, as the case may be.

(v) Notwithstanding any other provision in this Act concerning the revocation of a licence, a licence issued in accordance with this section may be revoked at the end of the first year or at

the end of any three month period thereafter where the annual limit has been exceeded and OGCI has come to the opinion that the licence holder has failed to comply with (ii). The licence holder may appeal the OGCI decision to the District Court.

(5) Lotteries with a *maximum prize fund* of €50,000 per week, or €250,000 per month, may be operated only under a *two year licence* issued by the OGCI following, where appropriate, consultations with the local Garda Superintendent and must comply with all requirements [of this Act in relation to application for licence] [as set down by OGCI] . [Category 2I]

(6) Lotteries having a prize fund *in excess of* €50,000 per week or €250,000 per month shall require an *annual licence*. A maximum prize fund limit of €400,000 per month shall apply to such lotteries. Licence type 2I shall apply, but before it issues a licence, OGCI shall

- (i) give notice to the Minister and shall consider any observations made by him / her,
- (ii) it shall specify the limits to the prize money, having regard, inter alia to the applicant's capacity to operate a lottery of the scale proposed and
- (iii) it may vary the licence fee, taking account, inter alia of the scale of the lottery in question and the resources required in monitoring compliance.
- (iv) The provisions of (10) below shall apply in the case of such lotteries.

(7) The prize fund limits as set out in paragraphs (4), (5) & (6), as well as the requirement to allocate the minimum percentage of the proceeds of sales to charitable or philanthropic causes, shall apply to all licensed lottery operators as comprehended by paragraph (1) (a) of this Head.

#### Part D – commercial promotions

(8) Notwithstanding paragraph 1(b), lotteries operated in conjunction with a sales or marketing initiative must be operated under a licence issued by the OGCI. Applicants for such a licence shall be subject to the appropriate requirements as set down by OGCI. OGCI may consult the Garda Superintendent for the area. OGCI shall also conduct compliance checks in accordance with Head 34.

For such a lottery, there can be no charge (whether disclosed or otherwise) to the customer taking part. [Category 2J]

#### Part E – scratch cards

(9)

- (i) For the purposes of this Act, “scratch card” means a card used in playing a lottery game which is played by uncovering or revealing an area on a ticket or a portion thereof to display the pre-printed numbers or symbols and in which the determination of whether the ticket is a valid winning ticket is capable of being made immediately when the numbers or symbols have been uncovered or revealed.
- (ii) The sale of scratch cards (other than scratch cards from the National Lottery) shall only be carried out under an annual licence issued by the OGCI, following (in cases where it is appropriate to do so) consultations with the local Garda Superintendent and the applicant must comply with all requirements [of this Act in relation to applications for licences] [as set down by OGCI]. (category 2K)
- (iii) The maximum prize shall not exceed €1,750. The licence may also specify the number of cards having that amount to be made available in a period.

- (iv) The sale of scratch cards, under the appropriate licence, shall be subject, where indicated, to Part 4 of this Act.
- (v) At least 25% of the proceeds from sales shall be allocated to the identified charitable or philanthropic cause.

Part F – alteration of limits on prizes / Orders of Minister

- (10) (i) The Minister may, from time to time, alter by Order the maximum amounts specified above, but the first such Order may not be made until a period of at least three years has passed since commencement and thereafter at intervals of not less than 4 years.
- (ii) Before making an Order under this Head, the Minister shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration of the amount in the total value of prizes on-
  - (a) lotteries which are conducted under this Act,
  - (b) any other lottery conducted in accordance with law, and
  - (c) charitable or philanthropic giving in society generally.

Part G – offences

- (11) A person commits an offence under this Head if he / she
  - (i) uses or miss-applies any part of the funds of a lottery for a purpose other than that stated when applying for a licence,
  - (ii) fails to keep records to support the transactions undertaken in connection with or in pursuit of a licence.

A person guilty of such an offence shall be liable to the penalties as outlined in Schedule 5.

Part H- Combination of licences

- (12) A licensee or licensees may not
  - (i) link, share, amalgamate or otherwise operate, present or advertise a lottery for which they have been granted a licence with any other licence issued under this head if the effect of so doing is or is intended to increase the prize fund or specific prizes unless the holders of each of the licences has applied to OGCI in advance and shall proceed only if OGCI has agreed in writing, and in accordance with any terms laid down by OGCI.
  - (ii) Where the application is by one licensee who holds more than one licence, and the application is in respect of more than one of the licences, the licensee shall specify each licence covered by the application.
  - (iii) OGCI shall have regard to the issues outlined at (10) (ii) in assessing the application.
  - (iv) OGCI may attach such conditions as are appropriate where it grants an application.
  - (v) OGCI shall develop and publish guidelines on the operation of this subhead.

Part I – Outlets permitted to distribute products

- (13) The Minister may make Orders under this Head specifying the places where
- tickets for a lottery to which paragraphs (4), (5) and (6) relate, or
  - scratch-cards (paragraph (9))

may, or as the case may be, may not be sold or made available for sale.

## **Head 20: Categories of bingo licences**

(1)

- (i) For the purposes of this Act, “bingo” means a game where players mark off numbers on cards or screens (whether or not they pay an amount before the game commences) as the numbers are drawn randomly, the winner being the first to mark off all the numbers on the card or screen that are required to win, and it includes any version of that game, by whatever name called, including the playing of the game by electronic means or by remote communication.
- (ii) Where, in cases where the numbers, etc required in order to win the top prize are not matched on any card or screen in the possession of a player, the top prize may, in accordance with the terms of the licence, be held over until the next occasion when a game is played, and may on that or those occasion(s) be increased, provided the limits on prize funds as specified in this Act are not exceeded.
- (iii) ‘Sales’, ‘proceeds of sales’ shall be the value of the cards entered in the game, whether or not money was actually received.

(2)

- (i) For the avoidance of doubt, this Act shall cover bingo whether held for primarily charitable or philanthropic causes, or otherwise.
- (ii) A registered charity may apply for and, subject to this Act, may be granted a licence under paragraph 3(i), (ii), (iii) or (iv).
- (iii) A non-profit sports or recreational club, facility, organisation or enterprise may apply for and, subject to this Act, may be granted a licence under paragraph 3(i) or (ii).
- (iv) Where (ii) or (iii) do not apply, a person or grouping (whether the grouping is permanent or temporary or ad hoc but has a defined structure) and the person or grouping has as a major purpose,
  - (a) the relief or improvement of the material or educational standards for persons or defined categories of persons in a geographic or otherwise defined area or belonging to a defined group, the pursuit of cultural or artistic activities, or
  - (b) the repair or restoration of sites or buildings having historical, environmental or community interest or benefit,may apply for and, subject to this Act, may be granted a licence under paragraph 3(i), but only where the person or grouping has adequate record keeping systems, including records of accounts.
- (v) A person other than those at (ii), (iii) or (iv) of this paragraph, including a corporate entity may apply for a licence under paragraph 3(i), (ii), (iii) or (iv), and, subject to this Act, may be granted a licence.

(3) The following arrangements shall apply where bingo is provided in venues in the State specified by the organiser:

- (i) Bingo with a maximum prize fund of or to the value of €8,000 per month, may be operated only under a two-year licence issued by the OGCI, and must comply with all requirements as set down by OGCI.[2L]
- (ii) Bingo with a maximum prize fund of or to the value of €25,000 per month, may be operated only under a two year licence issued by the OGCI, and must comply with all requirements as set down by OGCI.[2M]
- (iii) Bingo with a maximum prize fund of or to the value of €50,000 per month may be operated only under a two year licence issued by the OGCI, and must comply with all requirements as set down by OGCI. [2N]
- (iv) Where the prize fund or its value exceeds €50,000 per month, the bingo may operate only where the Minister, having had regard to paragraph 6 below, has made an Order permitting a prize fund in excess of €50,000 per month and specifying a maximum amount per year [but not to exceed €500,000 per annum]. A licence granted in these circumstances shall be a category 2N licence, but the licence fee may be adjusted.

(4) Where bingo is to be provided by remote means, a yearly licence will be issued by the OGCI. The OGCI may attach such conditions as are provided for in this Act including the licence fee to apply in such cases (2Q)

(5)

- (i) The OGCI may, where appropriate, consult the Garda Supt in the relevant area before issuing a licence referred to at paragraph 3 above.
- (ii) The applicant shall, where appropriate, in respect of the venue, provide to OGCI copies of current certification by, as appropriate, the Health & Safety Authority and by the Fire Service as well as certification of compliance with local bye-laws.
- (iii) References in paragraph 3 to “requirements as set down by OGCI” shall, in addition to (i) and (ii) of this paragraph, include any or all of the following:
  - (a) compliance with the application time frames, public notifications and other related requirements for receipt of applications.
  - (b) the frequency of the bingo sessions or the number of occasions per week or month,
  - (c) the maximum number of players to be permitted at a session, having regard where appropriate to the age of the players and other relevant factors,
  - (d) the time or times of day when bingo sessions may be held,
  - (e) compliance with public order requirements e.g. level of noise, particularly where the bingo session is taking place in close proximity to a residential area,
  - (f) having regard to the type or category of licence sought, the extent to which Head 25 – licence holder – must be complied with, but requiring full compliance in the case of paragraph 3(iv),
  - (g) Where the licence is held by a registered charity, at a *minimum*, 25% of the proceeds of sales shall be allocated to charitable or philanthropic causes.
- (iv) A person or grouping that is refused a bingo operator’s licence for a bingo under paragraph 3(i) may, where the refusal was on the grounds that the person or grouping did not meet this Head, appeal the decision to the District Court
- (v)
  - (a) OGCI may take account of the number of bingo licences in operation in reasonable proximity to the proposed location of the applicant’s site and may take account of



the effect on the community in the area in question in the event of a further licence being granted.

- (b) OGCI may take account of links between the charitable purposes and the locality where the bingo is to be held.
  - (c) Where OGCI decides to grant the application, it may attach such conditions as seem appropriate in the circumstances of the situation that prevails.
- (vi)
- “Charitable or philanthropic cause” means a cause supported by or promoted by:
- a charity registered in accordance with Part 3 of the Charities Act 2009,
  - a non-profit sports or recreational club, facility, organisation or enterprise or
  - a person or grouping (whether the grouping is permanent or temporary or ad hoc but has a defined structure) and the person or grouping has as a major purpose the relief or improvement in the material or educational facilities available to a defined group or category, whether defined by geographic location or otherwise, or the pursuit or promotion of cultural or artistic aims, or the repair or restoration of places having environmental, historical, cultural or community interest, but only where the person or grouping has adequate record keeping systems, including records of accounts.

(6) An Order under paragraph 3(iv) may be made following receipt of a request from OGCI stating its position on the suitability and location of the venue, the impact on other amenities, local demand, and other relevant considerations. A draft of the Order shall be published one month before its signature.

(7) (i) The Minister may, from time to time, alter by Order the maximum amounts specified at paragraph 3(i), (ii), (iii) above, or the amount referred to at (iv), but the first such Order may not be made until a period of at least three years has passed since commencement and thereafter at intervals of not less than 4 years.

(ii) Before making an Order under this Head, the Minister shall, in so far as it is possible to do so, consider and take account of the consequences of any proposed alteration of the amount in the total value of prizes on-

- (a) bingo which is conducted under this Act,
- (b) any other bingo conducted in accordance with law, and
- (c) charitable or philanthropic giving in society generally.

- (8) A person commits an offence under this Head if he / she
- (i) uses or mis-applies any part of the funds of a bingo for a purpose other than that stated when applying for a licence,
  - (ii) fails to keep records to support the transactions undertaken in connection with or in pursuit of a licence.

A person guilty of such an offence shall be liable to the penalties as outlined in Schedule 5.

## **Head 21: Variation of licences**

(1) A licence holder may, while the licence has not expired, apply to OGCI to vary a licence by:

- (i) the inclusion of games (including table games in the case of category 2Q licences) not previously specified in the licence, whether by substitution or addition,
  - (ii) the inclusion of new machines / equipment by way of substitution or additions, [but only necessary where the equipment / machines are for direct use by players].
- (2) This Head does not apply to the number or type of tables in a category 2R licence.
- (3) The OGCI shall give its decision within one month of receipt of the application. It may grant the request, reject it or part-grant.
- (4) The OGCI may, in the event of granting or part-granting the application, review the fee applicable to the licence.
- (5) A variation shall not have the effect of extending the duration of a licence.

## **Head 22: Register of licences, etc**

- (1) OGCI shall establish and maintain for the purposes of this Act a register of
- (i) all licenses, whether service or personal – Part 3, Chapters 2, 3 refer.
  - (ii) all registrations under Head 16 and
  - (iii) details of all lotteries coming within Head 19(2),
- to be known as the Gambling Licences Register and which is referred to in this Act as “the Register”.
- (2) The Register shall contain such entries and additions, as may be prescribed from time to time by Order of the Minister.
- (3) The OGCI shall, having due regard to the Data Protection Acts, make the register available on its website as soon as possible following commencement and shall maintain and update it on an on-going basis.
- (4) Before publication, the OGCI shall invite the licence holder in question to notify it of information the licence holder proposes to be excluded on grounds of commercial sensitivity or confidentiality and OGCI shall give due consideration to the licensee’s position.

## ***Chapter 2: Service licences***

### **Head 23: This Chapter does not apply to personal licences**

- (1) This Chapter does not apply to licences in categories 1H, 2U, 2V (personal licences).
- (2) This Chapter applies to all other categories, except where indicated.

### **Head 24: The effect of a service licence**

- (1) A licence granted under this Act is an authorisation to carry on or provide or make available the service or services specified in the licence.

(2) A licence may make such provision as is deemed necessary in relation to the licence holder or premises used in connection with the licensed service or any other relevant matter.

(3) The holder of a remote licence may make part of the licensed service available by giving access to a connected or linked site but only where OGCI has been informed in advance and it has agreed, subject to such terms and conditions as OGCI may specify. But the holder of the licence remains responsible and liable for the related service.

## **Head 25: The licence holder**

(1)

(i) Any person or persons (other than a child / young person), whether resident in the State or elsewhere, may apply for and, subject to this Act, may be granted a licence, and the person to whom a licence is granted shall, subject to paragraph 2, be the licence holder.

(ii) "Person" includes a company, partnership or an unincorporated association.

(2)

(i) Where the applicant is a company, partnership or an unincorporated association, the application shall be made on the applicant's behalf by certain of its officers (from those mentioned at paragraph 4(ii) below) and they shall hold the licence on behalf of the applicant and shall, for purposes of meeting the licence holder's obligations under this Act, be the licence holder (except where indicated – see for example, Head 50(3), reserves).

(ii) A nominated officer who holds a licence on behalf of company, etc may, together with the licence holder, be liable for any consequences from breaches of a licence or of its terms and conditions – see Head 59(4).

(3)

(i) The named licence holder(s) shall, while the licence is extant, be presumed to be a fit and proper person(s) to hold the licence (unless or until the contrary is shown), and

(ii) He or she shall be permitted to carry on the service specified in the licence, subject to any terms or conditions attaching to it.

(iii) He / she must account to and satisfy the OGCI that the licence is being complied with.

(iv) The duty at paragraph (iii) persists while the licence is in force.

(v) Nothing in (i) – (iv) shall limit the right of OGCI to, at any time, investigate or bring proceedings under this Act.

(4) Subject, where appropriate, to paragraph 5, the following may apply to become a licence holder:

(i) where there is a sole owner of an enterprise (including where it is a company) whose business is either gambling or the provision of facilities or services for gambling,

(a) the proprietor or

(b) a person acting as such by virtue of being the holder of a lease on premises used for the provision of the services mentioned,

(c) a person who is the de facto holder of the enterprise, may apply for a licence(s) required by this Act.

(ii)

- (a) An application on behalf of a company, partnership or unincorporated association, subject to this Act, shall be made by so many as is deemed necessary by this Part from the following list of persons (referred to in this Act as qualifying officers) holding positions as or equivalent to the following (see paragraph (6)):
- any member of the board of the company (including the chair person),
  - the chief executive officer,
  - the company secretary or
  - other person performing a senior management function in the company or association
  - a partner in the partnership.
- (b) Where the application is made on behalf of a company providing gambling services or facilities, and where the applicant company is itself a member of a group of companies whose business in whole or in part, is related to gambling or the provision of facilities or services for gambling, the application shall be made by such of the persons who in the applicant company hold any of the positions mentioned at (a) as are required by this Act and in respect of each person named, his or her position in any other company in the group or in the holding or parent company shall be named
- (5)
- (i) The minimum number of persons from those mentioned in paragraph 4 who are required to act as licence holders shall be as set out in Schedule 2. The number may be increased either by the applicants or where required by the OGCI.
- (ii) Where the application is made on behalf of a partnership, company, etc the persons named / proposed as licence holders shall be drawn from those mentioned in paragraph 4.
- (6) Subject to this Act, a person may be a licence holder for more than one licence of the same category or for licences in more than one category.
- (7) Nothing in this section shall operate to prevent any person from applying for or being granted a licence as a proprietor or leaseholder of an enterprise mentioned in (4) (a) by virtue of his or her capacity as a qualifying officer of a corporate body.
- (8)
- (i) A licence holder shall, without delay, inform the OGCI when he/ she has been [charged with or] convicted of an offence, declared bankrupt, has resigned, retired, or become incapacitated.
- (ii) The OGCI shall also be informed of a death of a licence holder.
- (iii) The OGCI shall evaluate the nature, etc of a conviction and if deemed necessary, it shall require the licence holder to cease acting in that capacity.
- (iv) If appropriate, a category 4A licence may issue pending the appointment for up to the remainder of the duration of the licence, of a new licence holder.
- (v) Nothing in this paragraph shall prevent the termination of a licence, if appropriate and necessary in the circumstances.
- (9)
- (i) In the case of category 2R, if a licence for the sale of intoxicating liquor has been granted for the premises, the holder of said intoxicating liquor licence must also be proposed as a licence holder for the purposes of this Part.

- (ii) The provisions at (i) above will not apply in the case of category 4B (i) licences
- (iii) No licence may issue under this Act in relation to a gambling service where a person who is required by (i) to be proposed as a licence holder is not approved by OGCI.

### **Head 26: Status of premises named in the licence**

(1) Subject to Head 27(2), a premises named in or in connection with a licence is, for the purposes of this Act, the location at which or from which the licensed service is to be carried on, provided or made available.

(2) The premises shall be maintained to standards adjudged by OGCI to be necessary to preserve the integrity of the service which is the subject matter of the licence.

(3)

- (i) The OGCI shall not be liable for ensuring adequate protection is in place on matters of liability for injury or loss by members on the public while on the premises.
- (ii) The OGCI may however require proof of adequate insurance cover, Health & Safety and Fire certification.

(4) Any business entity engaged in the activity permitted by the licence and operating in or from that premises must operate in a manner not injurious to the licensed service or to the role of the OCGI under this Act.

(5)

- (i) OGCI may order the closure of a premises for up to 7 days for the carrying out of essential maintenance or repairs or for the production of documentary evidence of compliance with paragraph 3(ii).
- (ii) If a longer period is required, OGCI may apply to the District Court for a period not exceeding one month or to the Circuit Court for a longer period.
- (iii) A licence may not be transferred under Head 27(2) during a period of closure.
- (iv) In the event of failure to comply with the court order under (ii), OGCI may withdraw any licence still applicable to the premises.

### **Head 27: Service licences not transferable**

(1)

- (i) A service licence issued to a licence holder under this Act may not be transferred by way of sale, inheritance, succession, gift or otherwise to any other person, without the prior agreement of OGCI and in conformity with any conditions it may stipulate.
- (ii) OGCI may agree to a transfer of a service licence to another person under (i) only if that person, being the proposed licence holder, meets the requirements of this Act in relation to the holding of a service licence.

(2) The operation of the licensed service may, if approved by OGCI, be transferred from a location to another (other than when Head 26(5) applies).

### **Head 28: Purpose of procedures under this Chapter**

- (1) The procedures under this Chapter apply to:
  - (i) the scrutiny of applications to determine if the applications are valid (head 31), and
  - (ii) the assessment of valid applications, to determine whether licence should be granted (head (36)).
  
- (2) The procedures referred to at paragraph 1 are for the purposes of
  - (i) establishing in so far as is reasonably possible to do so, that the persons proposed as licence holders are fit and proper persons to hold a licence under this Act,
  - (ii) establishing that the service proposed is
    - a. A suitable service for the purposes of this Act,
    - b. It is financially viable (with adequate reserves to meet players winnings and entitlements),
    - c. It makes appropriate provision to protect and safeguard players and
    - d. The service is or will be conducted in a socially responsible manner.
  
- (3)
  - (i) The procedures shall be implemented based on pre-established criteria.
  - (ii) The criteria shall, inter alia, set out standard time periods normally required before reaching the decisions on the validity of applications or on the award of a licence mentioned in Heads 35 and 37, and OGCI shall inform the parties of the periods as well as when they cannot be adhered to.
  - (iii) The criteria may, subject to Head 33, include provision for hearing oral submissions.
  - (iv) The OGCI shall prepare and publish a Code of Practice setting out the criteria and other information on the manner in which it processes applications for licences.

## **Head 29: Public notice of intention to apply**

- (1) Where it is intended to apply for a licence in respect of a service other than a remote service,
  - (i) A notice shall be placed in a local newspaper circulating in the area, or, in the case of 1A, 1B, 1C, or 1D, the areas where the licence is to be operated
    - (a) where the licence being applied for is a category 1A, 1B, 1C, 1D,, 2A, 2B, 2C,2D, 2E, 2F or 2H, 2I, 2J or 2K, 2L,2M, 2N & 2R.
    - (b) where a category 1D, or 2G licence is sought in addition to a category 1A, 1B, 1C licence.
  - (ii) A notice shall also appear in a national newspaper where the application is in respect of a category 1C or 2R licence. Where it is intended to apply for a category 1G or category 2S licence, a notice shall appear in a national newspaper only.
  - (iii) The notice mentioned at (i), (ii) shall appear at least four weeks prior to an application being submitted to OGCI. A shorter period cannot be accepted except where the OGCI are satisfied that exceptional circumstances applied.
  - (iv) The notices at (i) and (ii) shall appear on two separate days' editions.
  
- (2) Where it is intended to apply for a licence in respect of a remote service, categories 1E,1F,1I, 1J, 1K, 2O, 2P, 2Q, 3A, 3B a notice shall be placed in two national newspapers and paragraph 1(iii), (iv) shall apply.
  
- (3) The OGCI shall take appropriate steps [on its website, etc] to publicise the fact that category 2S, 4A, 4B applications have been received by it.

- (4) The notices referred to at paragraphs 1 and 2 shall be in the form prescribed in Schedule 3.
- (5) The notice shall contain details, for the benefit of third parties, of how, when and where correspondence (including objections) relating to the proposal may be directed.
- (6) An Garda Síochána are a third party in the case of all applications, and may submit comment to OGCI on any application whether by way of objection or not.
- (7) In all newspapers the notice shall be at least across two columns and in a tabloid paper, the notice shall be at least 8 cm high or in broadsheets, it shall be at least 10cm high.

### **Head 30: Submitting an application**

- (1) The onus is on the applicant to meet the requirements of and to satisfy the OGCI in its assessment of applications.
- (2) The application shall be submitted to the OGCI in such form and by such means as the OGCI may prescribe.
- (3) Where the OGCI prescribes a format, the application shall be in that format.
- (4) The OGCI shall establish closing dates for receipt of applications in respect of each category of licence, and may set more than one date in each calendar year in respect of each category.

### **Head 31: Information to accompany the application**

- (1)
  - (i) In each case where it is proposed to make a gambling service available in the State, the application shall
    - (a) identify the category of licence being applied for,
    - (b) where it is a land based service requiring a category 1A, 1B, 1C, 1D, 2A, 2B, 2C, 2D, 2E, 2F, 2R
      - the application shall indicate if it is for multiple sites / locations, and
      - each premises or, as may be, location, (even if just a single outlet) shall be identified by address and a map or external photograph,
      - a plan of the building in which the service is or is to be located, and a plan of the floor area used or to be used for the provision of the service.
    - (c) Where it is a remote service, the application shall identify all of the locations at which the activities connected with making the service available to players are carried on.
  - (ii) Each applicant (remote and land based) shall indicate
    - (a) the name(s) of the applicants, including contact details, (Head 25 applies).
    - (b) their position in relation to (each of) the premises and, if applicable, the company in respect of whose business the application is being made,

- (c) previous history as a holder of a betting or gaming licence or gambling licence, whether in the State or elsewhere.
  - (d) subject to Head 50(5), where it holds records of transactions with customers, records relating to its accounts and other matters as specified from time to time by OGCI,
- (iii) Where the applicants represent a corporate entity (whether a private or public company),
- (a) an outline of the company's structure (including its links to or relationship with other companies),
  - (b) recent details of company registration,
  - (c) most recent audited accounts,
  - (d) current tax clearance certificate issued in accordance with section 1094 of the Taxes Consolidation Act 1997,
  - (e) statement of employee's social security deductions and lodgement,
  - (f) banking details (branch, account number, authority to inspect).
- (iv) An applicant who is a sole owner shall supply all the information specified above other than [details particular to a corporate body] [details of the company structure or company registration].
- (v) Planning permission:
- (a) Without prejudice to any requirements in this Act (whether applicable in all or in specific licence categories), in the case of every premises to which the Planning Acts apply, licence applications shall be accompanied by evidence of compliance / conformity with those Acts [where the place is in the State]. The applicant shall supply to OGCI evidence or additional evidence as it may require.
  - (b) Head 37(9) applies where appropriate, i.e. no licence may be issued until planning permission has been secured.
  - (c) In addition, the applicant for a category 2R licence (casino) shall be required to make a statement regarding
    - floor area for tables and
    - external signage
 for the premises in question.
- (vi) Each application shall include details of:
- (a) the games or services to be provided,
  - (b) the equipment to be available for use by customers,
  - (c) details of the number and type of equipment,
  - (d) its capacity (stakes, payments) and functions,
  - (e) arrangements for maintenance checks,
  - (f) calibration certificates (issued by body approved for that purpose) [see below]
  - (g) proposed staffing levels and structure
  - (h) the review referred to in Head 66.
- (vii) Details of any private security services retained or to be retained, including details of the provider's registration, etc with the Private Security Authority.
- (viii) Related / conflicting interests



- (a) Each applicant, and in the case where Head 25 applies, each nominated person, shall supply to OGCI details of any interest other than the business for which a licence is sought where the interest is one
    - whose position or performance may be or will be improved financially or
    - whose value will be enhanced in the event of the licence being granted to the applicant or nominated person under this Act, or
    - where the activities related to the interest would be ones to be performed in connection with compliance checks under this Act (e.g. auditing of accounts of other licence holders or on request by OGCI, IT analysis, policing, etc).
  - (b) The obligation to inform OGCI under (a) continues to apply where the interest (as referred to in this paragraph) arises after a licence has been granted and at any time while the licence is in operation.
  - (c) “Interest” includes employment, property (ownership or other interests in land, ownership or share-holdings in any enterprise), profession, trade or business.
  - (d) This paragraph also applies where the interest is held by the spouse, civil partner or adult child of the applicant or nominated person.
  - (e) OGCI shall assess the relevance of the interest to the application and to the integrity of its functions but having an interest as defined in this paragraph shall not, of itself, debar or disqualify the holder or beneficiary of the interest from holding a licence under this Act.
- (ix) Calibration: The reference in (vi)(f) to a “body approved for that purpose” is to
- (a) a third party recognised as an agency or body for the purposes of certifying compliance with generally accepted international standards by equipment or devices used for or in connection with gambling, whether described as mechanical or electronic, and
  - (b) included in a list of approved bodies published by OGCI from time to time.
- (x)
- (a) A body wishing to be included in the list mentioned at (ix) may apply to OGCI at any time and shall provide such information as OGCI may require in order that it may satisfy itself as to the suitability of the applicant for the purposes stated and shall pay to OGCI such fees and costs as are appropriate.
  - (b) A body shall remain on the list for so long as it meets the requirements of OGCI, including any periodic assessments carried out by or on behalf of OGCI and the payment of any fees.
  - (c) OGCI may rely on assessments carried out by authorities in any EU Member State for the purposes of (a) and (b).
- (2)
- (i) The OGCI may set out more specific detail in relation to information it requires on the matters listed.
  - (ii) It may take account of the scale, complexity (in regulatory terms) and likely impact of the proposed service as a basis for requiring more detailed information from certain applicants.
  - (iii) It shall, subject to this [Act], observe the requirements of the Data Protection Acts in relation to information it acquires from or about an applicant.

(3) It shall be an offence for an applicant or for anyone acting on his / her behalf in relation to the application to supply false information or information he /she knows to be untrue and shall attract a maximum penalty as set out in Schedule 5.

### **Head 32: Convictions to be declared**

(1) In addition to the matters listed in Head 31, each applicant, or in the case of a company, etc, those representing the applicant company and who, in the event of an application being accepted, would be the licence holders, shall declare details of any [pending proceedings or] conviction recorded against him or her, whether in the State or elsewhere, where the conviction is not within the terms of any statutory arrangement in the jurisdiction where the conviction was recorded as a conviction the details of which may, in line with that statutory arrangement, be withheld.

(2) Full details must be declared where the conviction is not covered by a statutory non-disclosure arrangement, the details to include the offence of which convicted, the penalty imposed, the court, the date of conviction.

(3) Failure to disclose a conviction which should otherwise be disclosed may render an application void. It may also result in any licence issued in good faith by the OGCI (having been denied the information mentioned at paragraph 2) may be terminated or otherwise curtailed or altered.

(4) Having a conviction including one where disclosure is required shall not of itself be sufficient grounds for refusing an application; a conviction may be relevant to the decision to accept an application where the circumstances of the offence in question are of such a nature that it would represent a risk to public safety or to the integrity of the licensing arrangements in this Act.

(5) The Minister may specify certain offences which must be declared in all cases, even if otherwise covered by a non-disclosure arrangement in the place of conviction (deception, fraud, theft, robbery, money laundering, serious assaults).

(6) It shall be an offence to supply false information or information he / she knows to be untrue and shall attract a maximum penalty as set out in Schedule 5.

### **Head 33: Hearings and oral submissions**

- (1) The OGCI may, either
- (i) in connection with an examination to establish the validity of an application or
  - (ii) in relation to an assessment as to whether to grant a licence, and
  - (iii) at its discretion,

having regard to any or all of the following:

- (i) the scale of the facilities required to operate a licence, if granted, and the impact on choice and competition available to customers
- (ii) the additional data available or required by it before deciding the application,

- (iii) the views expressed by third parties (having regard to the locus standi of the third parties),

decide to have a hearing to hear, examine and evaluate data of a technical or scientific nature or to establish and clarify certain matters of fact, before reaching a decision.

(2) The hearing shall be conducted by an officer of the OGCI from among those authorised by the Minister for the purposes of Head 35, 37 (but who is not the assessor in the instant case), assisted, as may be, by two other OGCI officers of appropriate qualification and experience, appointed by the chief officer, and referred to as examiners.

(3)

- (i) It shall be presumed that a hearing will be in private.
- (ii) A hearing may, however, be conducted, at the discretion of the chair, wholly or partially in public where a public hearing would be in the interests of fair procedure and where to do so would enhance the integrity of the OGCI and its procedures.
- (iii) The chair shall have regard, in particular, to claims of commercial sensitivity and confidentiality before deciding to hold a hearing or part of it in public.
- (iv) The OGCI officer in charge of a hearing shall, at the end of the hearing, prepare a report in writing, with, if appropriate, observations and recommendations and, along with other relevant evidence, it shall be submitted to the chief officer in his / her capacity as deciding officer in the case (see Head 35, 37).

(4)

- (i) The chair shall endeavour to ensure “equality of arms” as between the level of legal, technical or other expertise being availed of by the parties in the course of the hearing.
- (ii) The OGCI shall not be liable for any costs incurred by any party, other than itself, to a hearing including any costs incurred in respect of retained legal advice or technical expertise.

(5)

- (i) In this section, “private” hearings means a hearing at which parties shall not be called upon to give a presentation in the presence of other parties or their representatives.
- (ii) The Chair and, where applicable, the examiners may question the party making the presentation on its content, with a view to establishing or clarifying certain matters.

(6) A “public” hearing shall proceed on the same basis as a ‘private’ hearing, other than that other parties, along with the public, may attend but may not participate.

### **Head 34: Assessing validity of applications**

(1) The OGCI shall designate assessors for the purpose of establishing the validity of an application. The assessor shall report on the application to the chief officer or other person mentioned in Head 35.

(2) Notwithstanding Head 30 [placing the onus on the applicant], the OGCI may take steps to satisfy itself about the accuracy and completeness of the information supplied under Heads 31 and 32 before deciding that an application is valid. The OGCI may:

- (i) Carry out, or have carried such checks, analysis or scrutiny as are reasonable.
- (ii) It may, without prejudicing the eventual decision on the application, seek additional information from the applicant, and may set deadlines for receipt.
- (iii) It may (subject to any statutory limitation on an agency in relation to the confidentiality or access to information it holds) be assisted by any of the statutory agencies listed in Schedule 4 which holds or has access to information relevant to the applicant's application.
- (iv) Material held or provided by another jurisdiction may be subject to verification, access to be arranged through established means (see Head 12).
- (v) Schedule 4 lists the statutory agencies; it may be amended by Order of the Minister.

(3)

- (i) An application must be rejected and deemed invalid where it is considered not to satisfy the requirements of this Part.
- (ii) An application does not satisfy this Part if any or all of the following apply;
  - (a) the information specified in Head 31, or any additional data sought by OGCI is not supplied or
  - (b) on examination, the material supplied under Head 32 reveals convictions of such gravity and, having regard to the service for which a licence being sought, relevance or
  - (c) shortcomings in financial, taxation or regulatory matters of such a degree that Head 28, in particular Head 28(2) cannot be satisfied.
  - (d) The OGCI is made aware or becomes aware of other relevant material, facts or information which gives rise to sufficient concern as to the suitability of the applicant and which, on being presented to the applicant (if necessary, in a form that protects the source of the material), his or her response fails to allay the concerns.

(4) An application that is rejected as being invalid shall not be considered further (other than where an appeal is brought).

(5) A valid application shall be sent forward to be assessed to determine whether a licence should be granted.

### **Head 35: The decision on validity of application**

(1) The decision on whether an application is valid shall be taken by the Chief Officer of OGCI or by another officer assigned to OGCI under Head 6 and whom the Minister has authorised (in addition to the chief officer) for this purpose, having regard to the report from the assessor on the application (Head 34(1)).

(2) More than one but no more than three persons (in addition to the chief officer) may at a point in time be authorised by the Minister under paragraph 1.

(3) Notwithstanding paragraph 1, the decision shall be taken by the chief officer in all cases where a hearing under Head 33 was held.

(4) The deciding officer may seek such additional data, including from the applicant, as he / she deems necessary in reaching a decision and shall set a deadline of no more than one month for its receipt in writing or by other means [video].

(5) In any particular case the OGCI may

- (i) accept that the application is valid, in which case Head 34(5) applies,
- (ii) reject the application as being invalid, in which case Head 34(4) applies.

(6) The OGCI, bearing in mind Head 28(3) (ii), shall inform the applicant without delay of the decision reached, and in cases where the application is deemed invalid, it shall give notice of the time limits for receipt of an appeal, as well as the applicable fee.

### **Head 36: Assessment for grant of a licence**

(1) A valid application shall be assessed by an officer of OGCI (nominated for the purpose by the chief officer) to determine its suitability for the grant of a licence.

(2) The assessment shall be based on pre-established, published criteria (provided for in Head 28(3)); the criteria shall take account of,

- (i) policy directives issued by the Minister (Head 5(3)).
- (ii) the primary purposes in Head 4,
- (iii) the submission of the Gardaí (if any),
- (iv) the views of the planning authority (if any) (Head 31),
- (v) the requirements of competition law,
- (vi) the views expressed by third parties (if any) (Head 29).
- (vii) the view of HRI / Bord na gCon in licences 1G – on-course betting.
- (viii) other relevant matters, including the report provided for in Head 33 (following a hearing).

(3) In addition to this Head and Head 18, the nominated officer of OGCI shall consider the following issues, specific to applications for category 2R licence:

- (i) the geographic distribution of applications for said licences;
- (ii) the relative population density,
- (iii) ease of access to the location of the applicant,
- (iv) competition issues,
- (v) other issues as may be determined by OGCI.

### **Head 37: Decision on whether to grant a licence**

(1) The decision on whether to grant the licence sought shall be taken by the Chief Officer of OGCI or by another officer assigned to OGCI under Head 6 and whom the Minister has authorised (in addition to the chief officer) for this purpose, having regard to the assessor's report (Head 34(1)).

(2) More than one but no more than three persons (in addition to the chief officer) may at a point in time be authorised by the Minister under paragraph 1.

(3) Notwithstanding paragraph 1, the decision shall be taken by the chief officer in all cases where a hearing under Head 33 was held.

(4) The deciding officer may seek such additional data, including from the applicant, as he / she deems necessary in reaching a decision and shall set a deadline of no more than one month for its receipt in writing or by other means (video).

(5) In any particular case the OGCI may, having regard to chapter 5 (attaching terms & conditions):

- (i) grant the licence sought, with or without terms and conditions,
- (ii) grant a licence for part of the application, with or without terms and conditions,
- (iii) reject the application in full.

(6) The OGCI, bearing in mind Head 28(3)(ii), shall inform the applicant without delay of the decision reached, and in cases where the applicant may have an entitlement to appeal part or all of the decision, it shall give notice of the time limits for receipt by the district court clerk of an appeal, as well as the applicable fee.

(7) The OGCI shall publish its decision on an application in the same newspapers as mentioned in Head 29, and shall indicate, for the benefit of third parties, the date by which a notice of appeal must be received by the clerk of the district court handling the appeal and the applicable fee.

(8) In the case of category 2R licences, the OGCI shall have regard to limits on number of licences, distribution, etc in Head 18.

(9) Notwithstanding a decision to grant a licence, no licence shall be issued by OGCI in any case unless full and final planning permission has been secured. The duration will be calculated from the date of grant.

### **Head 38: Appeals against decision to reject application**

(1) An applicant may appeal against a decision that the application is invalid.

(2) The appeal shall be addressed to the chief Officer, OGCI.

(3) The chief officer may assign the appeal to an officer of the OGCI other than an officer who took or was party to the decision being appealed.

(4) The appeal shall be by way of a full review of the application.

(5) The appellant may, when lodging the appeal, furnish information additional to that already supplied and this additional information shall be included in the review referred to at paragraph 4.

(6) The OGCI will endeavour to take a decision within one month of an appeal being received but it may extend this period, up to a maximum of three months, and shall inform the appellant of the date or revised date.

(7) The decision shall be to accept the appeal – i.e. the application is deemed to be valid – or to reject it.

(8) No further appeal except on point of law of exceptional public interest to High Court and the High Court may direct OGCI to re-examine the application but without prejudice to any decision OGCI may take following the re-examination.

(9) Nothing in this Head prevents the submission of another application in relation to the same proposal.

### **Head 39: Appeals against decision to grant, not to grant, etc a licence**

(1) An applicant or a third party may appeal against a decision not to grant a licence or to grant a licence or against terms and conditions attached to a licence.

(2) The Gardaí may lodge an appeal in any case decided by OGCI.

(3) The appeals under this section shall be to the [district] [circuit] court in the area concerned or, in cases where the appellant is not ordinarily resident in the State, to the Dublin Metropolitan [District] [Circuit] Court.

(4) The court may adjudicate on the admissibility of the appeal and on the locus standi of any third party, other than the Gardaí.

(5) Where the court agrees to hear the appeal, it may, at its discretion proceed by way of review and submissions or it may hear evidence from the parties and from expert witnesses for the parties.

(6) The court may uphold, vary or overturn the OGCI decision.

(7) No further appeal except on point of law (of exceptional public interest) to the High Court and the High Court may direct OGCI to re-examine the application but without prejudice to any decision OGCI may take following the re-examination.

(8) The [district] [circuit] court may make orders as to liability for costs.

### ***Chapter 3: Personal licences***

#### **Head 40: A service requiring a personal licence may not operate without it**

Where the OGCI has awarded a service licence and has stated that personal licences are required by certain persons connected with the delivery of the service, that service shall not commence until the requirement relating to personal licences is met.

#### **Head 41: Personal licences – general provisions**

(1)

- (i) Any person, other than a licence holder, who carries out or has responsibility for the carrying out of duties under the following headings, where the duties are related to or

- derive from the services being provided under a licence issued under chapter 2 of this Part must be licensed under this chapter, and
- (ii) the determination of the OGCI shall be final in the event of dispute or doubt about the need for a personal licence in the case of:
    - (a) manager of a business delivering a licensed service,
    - (b) manager of a premises where a licensed service is being made available to the public,
    - (c) any person holding a position of finance officer, accountant, regulatory control manager or posts in the business of the licensed service equating to any such post,
    - (d) a croupier or person managing games at tables in premises holding category 2R licences [casinos],
    - (e) any other person who has duties or functions within the licensed service that, in the opinion of OGCI, give the person sufficient authority or influence over the delivery of the licensed service, and where that authority or influence could, if mis-applied, adversely affect the players.
- (2) A service licence holder may not hold a personal licence for the delivery of that service where the duties of the personal licence holder entail direct operation or supervision of games and machines used by players.
- (3)
- (i) The OGCI shall establish a means where it can receive complaints or other comment from users of a service about the performance by the personal licence holder of his or her duties and it shall investigate matters raised.
  - (ii) The OGCI may take action against the personal and / or service licence holder where a complaint is upheld. It may
    - (a) impose a financial penalty (not exceeding €7,000 on the personal licence holder or €20,000 in the case of the service licence holder) on either or both,
    - (b) reduce the scope of the personal licence by removing certain activities permitted originally, either permanently or for a stated period.
    - (c) temporarily suspend the personal licence for a period not exceeding one month,
    - (d) revoke the personal licence.
  - (iii) Anyone who has been disciplined under this paragraph may appeal the decision to the chief officer, who shall have the case re-examined.
- (4) The OGCI may grade / differentiate licences to reflect supervisory or managerial duties where it is appropriate to do so.

#### **Head 42: Applications for personal licences**

- (1) The application shall be made by the applicant directly to OGCI (and not via the licence holder for the service in question).
- (2) The onus is on any person applying for a personal licence to supply the following information, plus any other matter reasonably required by OGCI:
- (i) details of personal identity,
  - (ii) details of compliance with immigration laws (if not a citizen of an EU Member State or otherwise have entitlement to be in / remain in EU),
  - (iii) his / her employer,



- (iv) the location at which he / she will be employed,
- (v) the duties being performed,
- (vi) the duties / functions for which a licence is being sought,
- (vii) qualifications (academic, professional) and relevant experience,
- (viii) detailed employment record – in the State and elsewhere,
- (ix) business, personal or family relationship with service licence holder, if any, including businesses other than the one providing the service,
- (x) convictions in the State and elsewhere [as well as pending proceedings],
- (xi) any Company Law orders / restrictions/ prohibitions,
- (xii) tax clearance certificate (Taxes Consolidation Act 1997, section 1094),
- (xiii) own bank details (with permission to enquire),
- (xiv) relevant medical history (substance abuse),
- (xv) whether he / she holds a licence under the Liquor Acts or Auctioneer's licence or a Public Service Vehicle Licence.

(3) Notwithstanding the onus placed on the applicant, the OGCI may, with due regard to Data Protection Acts, carry out such scrutiny and verifications as it deems necessary or appropriate and may seek additional information from the applicant. It may (subject to any statutory limitation on an agency in relation to the confidentiality or access to information it holds) be assisted by any of the statutory agencies listed in Schedule 4 which holds or has access to information relevant to the applicant's application.

(4) It shall be an offence to supply false information or information he /she knows to be untrue and shall attract a maximum penalty as set out in Schedule 5.

(5)

- (i) The applicant may appeal a full or partial refusal of his / her application.
- (ii) The same procedure as in Head 38 shall apply.

#### ***Chapter 4: Registration and licence fees, etc***

##### **Head 43: Fees in respect of licences, etc for services**

(1)

- (i) The OGCI may (subject to paragraphs 2, 3) charge fees in respect of:
  - (a) the receipt and processing of applications for
    - the licences specified in Schedule 1 or
    - registration under Head 16.
  - (b) the lodging of appeals (Heads 38, 39),
  - (c) where a licence is awarded, a fee applicable to the licence,
  - (d) where registration is granted, a fee applicable to the registration.
- (ii) The OGCI may (in addition to (i), but subject to paragraphs 2, 3) charge supplementary fees for any or all, or any combination of the following:
  - (a) per machine,
  - (b) per table (casinos),
  - (c) per terminal (Head 18(2)),
  - (d) per game, based on, inter alia, the maximum permitted stakes, winnings and margins

- (iii) In cases where the licence is for a land based service, i.e. a category 1A –1D, inclusive, or 2A – 2G, inclusive, or category 2K – 2N, inclusive, 2R , 4A or 4B,
    - (a) A fee shall be fixed in respect of each land-based premises / venue where the service is provided to the public. (see Head 31(1))
    - (b) The level of fee charged may be higher in respect of all or specified categories where the premises are located in an area in respect of which OGCI has determined that a higher fee is merited for all or for specified categories, having regard to the location, its population, the potential earnings, the capacity of the business to carry a higher fee and any other relevant factor.
- (2)
- (i) The OGCI shall prepare and submit to the Minister a schedule of fees (including fees determined by paragraph 1(iii)(b) and supplementary fees.
  - (ii) A Schedule becomes operative following the Minister’s approval and from such date as is specified.
  - (iii) The OGCI shall publish the Schedule.
- (3) In determining the appropriate fee for any category of licence, supplementary licence or for a registration, the OGCI shall have regard to the nature of the matter to which the fee will relate, including
- (i) the complexity of assessing applications,
  - (ii) the level and nature of the resources required in the assessment,
  - (iii) the subsequent compliance and enforcement requirements,
  - (iv) the relative benefits to be gained by the potential licensee or, as the case may be, registered party from the grant of the licence or registration.
- (4)
- (i) In cases where fees other than application fees arise, payment may, where OGCI has agreed and has set out its terms, be made by instalment and for this purpose; the fee may be set as a charge for the whole of the licence period or in respect of a portion of the full licence period.
  - (ii) A licence remains valid only for so long as the appropriate fee (or portion thereof) has been paid.
- (5)
- (i) The Minister may, on a proposal from OGCI, revise fees.
  - (ii) The revised fees shall apply to applications and to the grant of new licences / supplementary licences issued after the coming into force of the revised rates; they shall not apply to any portion of a licence period in respect of which a fee is outstanding on the operative date for the revised fee.
  - (iii) The OGCI shall publish the revised fees.

**Head 44: Fees in respect of personal licences**

- (1) This section applies to applications made to OGCI and to licences issued by it where the licence in question is a category 1H, 2U, 2V licence.
- (2) Notwithstanding that the application for a personal licence is to be made by the proposed holder of the personal licence (Head 41) the licence holder for the service in connection with

which the personal licence is sought is liable to OGCI for the payment of the fee or fees in question.

(3) Paragraphs 3 to 5 of Head 43 shall apply to the setting and revision of fees.

(4)

- (i) In line with Head 42 and 51(1), a personal licence relates to a particular location and to specified roles, functions and duties.
- (ii) The level of fee may vary with the post held and the range of duties.
- (iii) The OGCI shall not be obliged to refund to the licence holder for the service any part of a fee in circumstances where the holder of the personal licence does not complete the full duration foreseen when it was issued.
- (iv) A failure by a holder of a personal licence to complete the period of the licence shall not, on payment of the appropriate fees, prevent that person from seeking a personal licence where it relates to a different location (whether or not there is a change in role, duties, etc), even where the second or further application is made within what would have been the period of the first or previous personal licence.
- (v) Without prejudice to the right to make a fresh application for a personal licence in circumstances where a period remains to be completed on the previous personal licence, a new personal licence may be issued for an uncompleted period of a personal licence, on payment of the fees due; the fees may be proportionate to the period to be completed.

#### **Head 45: Fees, etc for category 4C (temporary) licences**

(1) The licence fee for a temporary personal licence shall be set as a portion of the applicable annual fee.

(2) The application fee for a temporary licence shall be the same as for an annual personal licence.

#### **Head 46: Securities**

(1) The OGCI may,

- (i) in respect of any group or class of service licence holders or services or,
- (ii) having regard to relevant circumstances, particular licence holders, and
- (iii) in addition to the appropriate fee,

require the service licence holders concerned to lodge in a bank in the State a security of such amount and in such form as the OGCI shall determine.

(2)

- (i) The security may be called upon by the OGCI for the purpose of paying fines imposed on the service licence holder by a court in the State or paying financial penalties imposed by it for breaches of this Act.
- (ii) The service licence holder shall acknowledge and accept in writing at the time of lodgement that the OGCI may act in accordance with (i).

(3) The security [plus any interest earned] may be released only with the written consent of the chief officer of OGCI.

(4) The OGCI shall maintain a register of securities.

#### **Head 47: Obligation to pay fees not affected by other obligations to contribute**

The payment of fees and the lodging of securities referred to in this chapter are without prejudice to the obligations to contribute to the compensation fund (Head 75) or the Social Fund (Part 7).

### ***Chapter 5: Terms and Conditions***

#### **Head 48: Powers to attach Terms and Conditions to a licence**

- (1) Terms and conditions may be attached to any licence issued under this Act as follows:
- (i) All licence for a service issued in accordance with this Part, when Chapter 2 [service licences – Heads 30-39] is satisfied, shall be subject to such terms and conditions as are appropriate to the circumstances of the case and as are specified in this Chapter and in particular in Head 50.
  - (ii) All personal licences issued in accordance with this Part, when Chapter 3 [personal licences – Heads 40-42] is satisfied, shall be subject to such terms and conditions as are appropriate to the circumstances of the case and as specified in this Chapter and in particular in Head 51.
  - (iii) All of the games, machines (available to the consumer) or electronic device (on which customers can play games or place bets) specified in an application shall, subject to Head 49, carry a presumption that they are suitable and are proper to the licence by which they are or are sought to be permitted.
  - (iv) The terms and conditions shall apply for the duration of the licence (unless otherwise provided) or until a licence is terminated (by the licensee or by OGCI) and compliance shall be assessed in accordance with Head 56.
- (2) Notwithstanding where otherwise provided for in the Act, OGCI shall have the power to suspend, withdraw or revoke any licence or registration where it has deemed that conditions of the licence / registration have not been complied with, and the non compliance is of sufficient gravity to warrant such an action.

#### **Head 49: Orders to prohibit, etc certain machines, games, etc**

- (1) Notwithstanding any other provision in this Act, especially Head 48, paragraph (1)(iii), the Minister may, having regard to the Primary Purposes in Head 4, make such Orders as appear to him or her to be justified by those Primary Purposes and by public policy generally, and the Orders may be addressed to a specific game or machine or class of game or machine.
- (2) **Notwithstanding paragraph (7)**, an Order under paragraph (1) may prohibit or restrict:
- A game or a class of game
  - A particular machine or piece of mechanical or electronic equipment designed for use directly by players (whether or not for a fee), or a class or category of machine or equipment,

- (3) A prohibition may apply throughout the State and
- to all venues and locations, or
  - it may specify venues, by type or class, to which it applies.
- (4) “Restrict” [for the purposes of paragraph (2)] may include one or more of the following
- Limit the number of machines per venue,
  - Limit the number of terminals permitted under Head 18(6) – casinos.
  - Limit by designating the type of service, i.e. betting or gaming, to be made available on specific machines, whether at OGC’s own initiative or on foot of a Direction of the Minister in accordance with Head 5(3),
  - Limit by hours of availability,
  - Limit by stake, bet or fee to take part,
  - Prescribe a method of paying fee, bet, or stake,
  - Limit on prize money,
  - Limit on number of successive plays by the same player,
  - Limit by designating a place or places where the machine is placed,
  - Limit by designating the category of premises in which certain machines can be located
  - Permit OGC direct, continuous and contemporaneous access to the server supporting a machine or game where the machine or game are ‘restricted’,
  - Require manufactures, distributors, whole-sellers of the games, machines or equipment to provide certain information on the sale, location, etc of their products.
- (5) The Order may be for a determinate period.
- (6) An Order under this section may be revoked, revised, extended [by a further Order].
- (7) (a) Without prejudice to paragraph (2), fixed odds betting terminals, as defined in this Act, are prohibited in all instances.
- (b) (i) No licence may be issued under this Act in respect of any device that is or is capable of being or becoming a FOBT.
- (ii) Where a licence has issued in respect of a device that is not identified as a FOBT but is used as such or is capable of being so used, that licence shall be revoked forthwith and the device shall be impounded by order of the chief officer, OGC.
- (iii) The holder of the licence referred to at (ii) shall be guilty of an offence and is liable to the penalties in Schedule 5.
- (iv) Where a conviction has been secured under (iii), OGC may apply to the Court for an order to confiscate the devices in question and for the temporary or permanent closure of the location.
- (c) (i) A person registered under Head 16 shall not supply, maintain or repair any FOBT.
- (ii) It is an offence to breach (i). Penalties set out in Schedule 5.
- (iii) Upon a conviction, OGC may revoke temporarily or permanently the person’s registration and may apply to the court for a confiscation order.
- (d) (i) Any person, whether or not the holder of a licence or registration under this Act, offering to another the use of or access to a FOBT for purposes of betting is guilty of an offence and shall be liable on conviction to the penalty prescribed in Schedule 5.

(ii) OGCI may seize the device used and may apply to the court for a confiscation order.

(e) OGCI may in any place where devices are located, whether or not being used, and if being used, whether as FOBT or for another purpose, seize and apply to the District Court for a confiscation order.

### **Head 50: Attaching Terms and Conditions to a service licence**

(1)

- (i) Where, under Head 37 or 39, the OGCI has decided to grant a licence, OGCI may attach terms and conditions to a service licence.
- (ii) The terms and conditions shall specify the category of licence granted as well as any specification in relation to the games, activities, equipment permitted by the licence.
- (iii) Nothing that is prohibited by Head 49 shall be permitted and anything permitted shall be in conformity with any restrictions mentioned in that Head.

(2) It shall be a condition precedent that a licence holder may not commence a licensed service until he, she or they individually and, as appropriate, collectively, give notification that the terms and conditions specified by OGCI are accepted and all relevant fees are paid.

(3) Notwithstanding the generality of paragraph 1, in every case where a service licence is issued terms and conditions will be attached relating to:

- (i) duration of the licence,
- (ii) payment of the prescribed fee or fees,
- (iii) upkeep and maintenance of premises,
- (iv) maintaining full, accurate and current details of staff,
- (v) adequate provision for staff training
- (vi) having self-exclusion and due diligence policies
- (vii) the obligation to maintain adequate reserves to meet customer entitlements: where the licence is awarded to a company / partnership, the obligation to maintain reserves falls on the company, etc, rather than on the nominated licence holder,
- (viii) the obligation to maintain full, up-to-date records and accounts,
- (ix) the retention of records for a minimum period of two years and such additional period as the OGCI may in particular instances specify.
- (x) hours of business (other than for remote operations),
- (xi) the obligation to co-operate with OGCI
- (xii) the obligation to admit and produce at any reasonable time information, including records, as reasonably requested by OGCI officers,
- (xiii) the obligation not to admit young persons to premises during business hours (except category 2B).
- (xiv) the obligation, on request by a customer, and where practicable to do so, to provide a receipt for any transaction.

(4) The OGCI may attach terms and conditions on more specific matters relating to social responsibility, including

- (i) the introduction and maintenance of systems for monitoring of players whose pattern of gambling gives reason for concern,
- (ii) measures to counter-act under-age gambling,

- (iii) requiring licence holders to submit reports to OGCI (as it may from time to time specify) on matters relating to or arising from the operation of the licence,
  - (iv) programmes for training and up-skilling staff.
  - (v) in the case of category 2E, 2F, 2G licences, such conditions as are appropriate to the circumstances in the situation.
  - (vi) the information required by Head 75(2) – details of complaints / compensation procedures.
- (5) The holder of a service licence under this Act shall
- (i) retain at an office or other premises in the State such records as may be specified by the OGCI, and
  - (ii) notify the OGCI in writing of the address of any office or other premises where those records are retained.
  - (iii) in the case of a licence holder who is based outside the State and providing a service on a remote basis to persons in this State, and in accordance with Head 12, provide the OGCI with such information as requested, to enable the OGCI to fulfil its requirements under Head 12 and Part 4.
  - (iv) OGCI may, in particular, require details of the location of servers used in connection with the service and it may be a condition of a licence that OGCI's right of access to the server(s) for the duration of the licence is established to OGCI's satisfaction before a service may commence.
  - (v) Where it is not satisfied that access as required by the preceding paragraph can be reasonably guaranteed, OGCI may require that the server and related matters are located in the State or in a MS of the EU or in the EEA.
- (6) It shall be an offence for an applicant or a licence holder to knowingly provide to OGCI information that is false or misleading. A person found guilty of such an offence shall be liable to the penalties as outlined in Schedule 5.

### **Head 51: Attaching terms and conditions to a personal licence**

- (1) A personal licence has effect in relation to the specific matters specified therein and in cases where a service is accessed by the public at a location established for that purpose, only at that location.
- (2)
- (i) A personal licence may not be transferred to another by way of succession, retirement, resignation, death, promotion or as a result of any other event.
  - (ii) A personal licence may, with the consent of OGCI, and for a period not exceeding 6 weeks, be related to a premises other than the one specified where the same person holds the service licence for both locations.
- (3) The OGCI may issue a licence
- (i) for a period that is shorter than the maximum (one year) and
  - (ii) where it is a first licence, the licence may be for a period of six months or less, as the OGCI thinks appropriate.
- (4) It may attach conditions

- (i) that are general to all licences, including a general prohibition on licence holders personally accepting tips / gratuities / gifts from any customer / player, as well as
- (ii) conditions specific to particular or individual licences,

(5) The holder of a personal licence shall, while conducting business with the public, wear a badge supplied by OGCI, and that includes an indication his / her identity and duties.

(6) Head 25(8) and Head 32 apply if the holder of a personal licence is convicted of an offence, he/she shall notify OGCI of the conviction and any relevant sentence passed in respect of same. The OGCI shall review the licence according to Head 25(8) and Head 32.

(7) It shall be an offence for a personal licence holder not to comply with paragraph 6 above. A person guilty of such offence shall be liable to the penalties as detailed in Schedule 5.

### **Head 52: Duration of licences**

(1) The periods mentioned in column 4 of Schedule 1 are maximum periods, calculated from the date of issue.

(2)

- (i) OGCI at its discretion may issue a licence for a shorter period.
- (ii) The specified period is without prejudice to other provisions that provide for suspension, revocation or cancellation of a licence by OGCI or by a court.
- (iii) There is no expectation that licences when expired will be renewed,

(3) A new application is required when one expires, it will be examined on its merits but the previous performance of the licence holder may be considered in the assessment of the application.

(4) The periods mentioned in column 4 of Schedule 1 may be increased by Order of the Minister, but by no more than 50% of the period already specified.

(5)

- (i) When giving notice that a licence is being granted, OGCI shall set a period before the end of which the licence holder must have begun to provide the service.
- (ii) If the deadline in (i) is not met, there may be one extension, by a period of no more than three months, thereafter OGCI shall revoke / withdraw the licence.
- (iii) If a licence is revoked / withdrawn under (ii), OGCI may refund such part of any licence fee paid as it considers appropriate in the particular circumstances.
- (iv) In the case of a 2R licence (casino), the period referred to in (i) shall be no more than 6 months.
- (v) Notwithstanding anything in this sub head, the duration of a licence shall be calculated from the date of reward / grant.

### **Head 53: Hours of business**

(1) The periods mentioned in column 5 of the Table in Schedule 1 are maximum periods.



(2) OGC I may, if requested by a service licence holder, alter, but may not in any day or 24 hour period, exceed, those periods to take account of particular circumstances, whether permanent, temporary or occasional.

(3) In all cases where the table applies, it shall be presumed that the periods mention apply each day of the week, but that, in each case, the premises will close for at least two days in each calendar year and it shall be further presumed, unless the licence holder and the OGC I agree to the contrary, that the two days in question shall be Christmas Day and Good Friday.

(4) The times mentioned in column 5 in Schedule 1 may be altered from time to time by Order of the Minister.

(5) A licence holder who offers or provides gambling services outside of the opening hours set down in this Head or Schedule 1 shall be guilty of an offence and shall be liable to the penalties as outlined in Schedule 5.

(6) Further to paragraph 5, a licence holder who offers or provides gambling services on prohibited days shall be guilty of an offence and shall be liable to the penalties as outlined in Schedule 5.

## **Part 4: Monitoring and Compliance**

### **Head 54: Appointment of authorised officers**

(1) For the purposes of this Act, the Minister or, if authorised to do so by Order of the Minister, the Chief Officer of OGC I may appoint in writing officers who are for the time being assigned to OGC I to be authorised officers for such period and subject to such terms and conditions as the Minister or chief officer may determine.

(2) Each authorised officer shall be given a warrant of his or her appointment and, when exercising any power conferred by this Act, shall, on request by any person affected, produce the warrant or a copy thereof.

(3) An appointment under this Part as an authorised officer shall cease

- (i) where the Minister or the chief officer, as the case may be, revokes the appointment [but the chief officer may not revoke an appointment made by the Minister] or
- (ii) where it is for a fixed period, upon the expiry of that period or
- (iii) upon the retirement, resignation, transfer of an authorised officer or upon termination of an officer's contract of employment.
- (iv) But an appointment under (ii) may be renewed.

(4) The chief officer shall ensure that

- (i) the cohort of authorised officers has within it a range of expertise and qualification necessary to perform inspections across the full range of the technological, accounting, auditing and regulatory disciplines relevant to enforcement of this Act,
- (ii) having regard to the two roles identified in Head 7(1)(iii)(a), appropriate arrangements are put in place to avoid the carrying out by any officer of functions under both of those roles in relation to any particular operator or licence holder.

## Head 55: Powers of authorised officers

- (1)
- (i) An authorised officer may, on production of the warrant given in accordance with Head 54, at all reasonable times enter, inspect, examine and search any place where the inspector has reasonable cause to believe that a gambling service is being provided. The authorised officer shall produce the warrant of appointment when requested to do so and may do so in other circumstances at his / her discretion.
  - (ii) The officer may demand the name and address of any person on the premises.
  - (iii) The Officer may demand the production of a licence issued under this Act in relation to the premises in question.
- (2) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant in accordance with paragraph 3 authorising such entry.
- (3) A judge of the District Court, if satisfied on the sworn information of an authorised officer that
- (i) there are reasonable grounds for suspecting that information required by an authorised officer under this Part is held on any premises or any part of any premises, and
  - (ii) the premises is a dwelling
  - (iii) or where it is not a dwelling, the authorised officer in the exercise of his or her powers under this Part has been refused entry or has been prevented from entering the premises or any part thereof,

may issue a warrant authorising the authorised officer, accompanied if necessary by other persons, at any time or times within one month from the date of issue of the warrant and on production if so requested of the warrant, to enter, if need be by reasonable force, the premises or part of the premises concerned and exercise all or any of the powers conferred on an authorised officer by this Head.

- (4) An authorised officer may
- (i) inspect
    - (a) any premises or part of a premises specified in a gambling service licence or any premises where the authorised officer suspects gambling is taking or has taken place without a licence or in contravention of a licence or any premises used for the storage of equipment or machines used or to be used for the provision of services in contravention of the Act and
    - (b) any equipment or machine used or intended to be used in relation to the delivery of the service or other such thing on the premises;
  - (ii) question any person on the premises;
  - (iii) require access to any written or electronic record which is kept on or that may be accessed from the premises;
  - (iv) require to be supplied with a copy, in such form as she / he directs, of an entry in a written or electronic record which is kept on or that may be accessed from the premises;
  - (v) remove and retain anything if he / she reasonably believes that it constitutes or contains evidence of
    - (a) the commission of an offence under this Act, or

- (b) [an infringement] / [the breach of a term or condition] of a licence issued under this Act;
  - (vi) remove and retain anything if he/ she reasonably believes that it is being used or has been used in the commission of an infringement or an offence under this Act.
- (5) A person who obstructs an authorised officer or another person lawfully accompanying the authorised officer (Head 54) in the performance of his or her duty under this Act is guilty of an offence and is liable to the penalties as outlined in Schedule 5.
- (6) A person is guilty under paragraph 5 if he / she:
- (i) withholds, destroys, conceals or refuses to furnish any information or thing required for the purposes of an investigation by OGCI,
  - (ii) fails or refuses to comply with any requirement of an inspector under this Part, or
  - (iii) otherwise obstructs or hinders him or her in the performance of duties under this Act.

### **Head 56: Inspections**

- (1) Based on an assessment of risks, OGCI shall devise an annual programme of scheduled inspections of premises and facilities used to provide or in connection with licensed and registered gambling service. The assessment shall be based on relevant factors, including the scale and complexity of the licensed service, the turnover, previous history of compliance.
- (2) An authorised officer shall prepare a report following an inspection and may
- (i) to the extent that it is appropriate to do so, furnish a copy to the licence holder, setting out the outcome of the inspection,
  - (ii) provide a copy to any of the agencies listed in Schedule 4, but only if the report contains matter relevant to that agency.
- (3) The report shall
- (i) set out the authorised officer's findings, including any noted non-compliances with the terms of the licence,
  - (ii) notify the licence holder of the action to be taken by him / her as a result of the said non-compliances.
- (4) Nothing in this Head restricts the entitlement of OGCI to undertake inspections as it deems appropriate, including a follow-up inspection to evaluate the action taken, if any, as a result of the authorised officer's report, or any other scheduled or unannounced inspection.
- (5) An authorised officer may undertake duties outside the jurisdiction, including inspections, in accordance with arrangements entered into under Head 12.

### **Head 57: Cooperation with other agencies**

- (1)
- (i) An authorised officer may be accompanied and assisted in the exercise of his or her powers by such other authorised officers, members of the Garda Síochána or other persons as the authorised officer reasonably considers appropriate.

- (ii) Such other officer (other than a member of AGS) shall act and shall exercise the powers available under this Part in accordance with the instructions of the OGCI officer appointed under Head 54.
- (2) The composition of the inspection team shall have due regard to the nature of the service and the facility being inspected.
- (3) OGCI may, subject to any statutory provisions relevant to the receipt by the other body of information where the information has been received by OGCI in the exercise of its functions, provide to any persons or bodies listed in Schedule 4 (see Head 34).
- (i) where the information is reasonably necessary for the performance of its functions by that other body, or
  - (ii) where disclosure to another body will assist the OGCI in the execution of its functions.
- (4) Any of the persons or bodies listed in Schedule 4 may provide to OGCI, for use in the exercise of its functions, information received by the person or body in the exercise of his or its functions.
- (5) OGCI shall develop protocols governing such exchange of information as covered under this Head.
- (6) Provision of information in reliance on this Part may be subject to conditions (whether as to use, storage, return, disposal or otherwise).
- (7) In this Head “information” includes information received in the course of its operations by OGCI or by a body listed in Schedule 4, and includes information in any form, whether orally, in writing and electronically.

**Head 58: Reserved powers**

- (1)
- (i) A reserved power is one that may be exercised only with the express written authorisation of the Chief Officer, where the authorisation is as provided for in the Head.
  - (ii) The Chief Officer may avail of the powers in relation to:
    - (a) preventing access to remote services,
    - (b) the carrying out of undisclosed compliance tests.
- (2)
- (i) Further to Head 18(13), and without prejudice to the right of any licensed operator to seek an Order from a court preventing another, unlicensed operator from providing a service in the State, the chief officer may, in accordance with this Head, authorise or, as required, direct the taking of measures to prevent, disrupt or obstruct access to remote services that are being offered to persons in the State but which does not have a licence for doing so under this Act.
  - (ii) The authorisation or direction under (i) shall be based on a report from an authorised officer to the chief officer which outlines the activity and, where possible, efforts made to address the matter with the service provider concerned.

- (iii) The chief officer shall apply to the Dublin Circuit Court for permission to issue the authorisation or direction and shall specify in the application the measures proposed and the parties to whom the authorisation / direction is addressed, and the court shall grant or refuse the application, or vary or attach such conditions as seem to it to be appropriate. .
  - (iv) The application shall, where it is reasonably possible to do so, be on notice to the service provider concerned.
  - (v) In cases of urgency the chief officer may make an ex parte application to the High Court for permission to issue a temporary authorisation, being a period of no more than 21 days.
  - (vi) For the purposes of (iii) and (v), the measures may include any or all of the following:
    - (a) the use of electronic means to prevent, disrupt or obstruct receipt of the remote service by persons in the State,
    - (b) the duration of the authorisation / direction, subject to a maximum of 12 months, renewable.
    - (c) restrictions on carrying, broadcasting or otherwise making available to persons in the State information that would identify or permit access to the site, the restrictions to cover
      - publicity, including advertising, that refers in any way to the service,
      - the provision of services or facilities to the service provider by any person in the State, including a prohibition on financial transactions, and may include the freezing of bank accounts.
  - (vii) A breach of an Order shall be a contempt of court.
  - (viii) The application shall identify the persons/ parties to whom the authorisation / direction is addressed.
  - (ix) The Chief Officer may apply to the court:
    - (a) from time to time to add new / additional measures or parties or to remove certain of the measures or parties,
    - (b) at the expiry of a permitted period, for an extension to the period, and may do so more than once and for such period as the court may order and the court may at that time grant such variation as may be requested from it under the first indent of this paragraph.
  - (x) This Head and the procedures it sets out do not apply under Head 61(3)(i) when that Head refers to “blocking”.
  - (xi) The Data Protection Act shall apply to the use of names or identity features of persons where it is established electronically that those persons viewed or otherwise accessed the service available, even where those persons did not avail of the service.
- (3)
- (i) Undisclosed tests on compliance may be authorised for the purpose of ensuring a licence holder is meeting the responsible gambling provisions in Parts 6 and 7.
  - (ii) The tests shall be for the purpose of establishing compliance with requirements on the age of customers, limits on stakes, bets or winnings, availability on the premises of specified games, use of machines, staff competence and performance.
  - (iii) The Chief Officer shall authorise tests only on foot of a reasoned recommendation from an authorised officer, and shall issue an authorisation only after he / she has been granted permission by the Dublin District Court on an ex parte application.
  - (iv) The Chief Officer may authorise a report to be published on the outcome of the tests.
  - (v) The tests or reports thereon shall not be used in evidence in any proceedings.

## **Part 5: Offences, etc**

### **Head 59: Prosecutions and jurisdiction**

- (1) Proceedings under this Act arising from a breach of the Act or of regulations made thereunder or in breach of a licence awarded in accordance with this Act may be brought in the State regardless of where the offence was committed or where the defendant habitually resides.
- (2) Summary proceedings for an offence under this Act may be brought and prosecuted by OGCI, on behalf of the Minister.
- (3) Proceedings shall be undertaken in the Dublin District Court or, where appropriate, the Dublin Circuit Criminal Court in instances where the defendant is not habitually resident in the State.
- (4) Where an offence under this Act has been committed by a licence holder that is a body corporate, partnership, unincorporated body, both the licence holder and its nominated representative (as identified by Head 25) shall be guilty of the offence and both the body corporate and the nominated representative may be proceeded against and punished.

### **Head 60: Schedule 5**

- (1) Schedule 5 lists all the offences under this [Act] and establishes the maximum penalties for those offences, they being offences under the Heads of this [Act].
- (2) A prosecution may be brought for more than one of the listed offences at the same time and arising from the same set of circumstances.
- (3) A prosecution may be for an offence under a particular Head or more generally under Head 62 or for a combination of Head 62 and one or more particular Heads.

### **Head 61: Infringements**

- (1)
  - (i) For the purposes of this Act, an infringement is a breach of a licence but, in the opinion of the [authorised officer] [the chief officer, OGCI], having due regard to the primary purposes, it is a breach that can be addressed other than by proceedings before a court.
  - (ii) The breach may be regarded as an infringement where one or, where appropriate, more than one of the following criteria apply:
    - (a) the action or inaction resulting in the breach was not premeditated, planned or arranged in any way,
    - (b) the breach was accidental,
    - (c) the breach was incidental to or an unintended consequence of another transaction, where the transaction was a proper one,
    - (d) the person whose actions or inactions resulted in the breach was of junior rank or position and was not at the relevant time being supervised by or was not acting on the instructions of a more senior member of staff,

- (e) the licence holder has taken effective remedial action, including, as appropriate, training, review of procedures,
  - (f) any loss suffered by customers has been made good,
  - (g) or where, in the particular circumstances being examined, the authorised officer and the chief officer or other senior officer referred to in paragraph 2 agree that it is appropriate to regard the event as an infringement to be dealt with under this Head.
- (2) Where, following an inspection,
- (i) an authorised officer finds that a condition of a licence has been breached and
  - (ii) the officer is of the opinion that the breach amounts to an infringement,
  - (iii) the officer shall request the agreement of the chief officer or an officer of more senior rank than the first named officer (but only where that more senior officer has been authorised in that regard by the chief officer under this section) to proceed under this Head, and
  - (iv) where the officers agree to so proceed, including agreement on the penalty to be imposed, then, the authorised officer shall inform the licence holder.
- (3)
- (i) In any case, one or more of the following penalties may be imposed:
    - (a) an oral warning (the fact of which shall be recorded),
    - (b) a formal written warning to a licence holder,
    - (c) imposition of an administrative fine not exceeding €5,000,
    - (d) in the case of a land-based service, impose a suspension of the licence for up to 3 days,
    - (e) in the case of a remote operator, ISP and / or financial transaction blocking (taking down the service) for up to 3 days.
  - (ii) Where it is a second or further infringement, regardless of whether the infringement is of the same kind as any previous infringement, one or both of the following penalties may be imposed:
    - (a) a suspension of a licence, not to exceed one week
    - (b) a financial penalty not exceeding €10,000.
- (4)
- (i) A licence holder may appeal to the District Court against a determination of an infringement or against the penalty, or both.
  - (ii) The proceedings before the District Court shall proceed as if they were a summary trial and the court's decision shall have effect as if the case was tried summarily (i.e. a conviction is recorded when the District Court holds there was an infringement).
  - (iii) Where a court holds the licence holder liable, it may uphold or vary the penalty proposed by the authorised officer.
- (5) The licence holder shall declare details of infringements in any subsequent application under this Act for a licence.
- (6) The monetary penalties may be paid from the security lodged under Head 46.
- (7) OGCI shall give notice on its website and otherwise of recorded infringements.

## **Head 62: Substantive offences under this [Act]**

A person who provides gambling services

- (i) without a licence under this Act
- (ii) without a licence appropriate to the service,
- (iii) that contravene or exceed the terms of a licence granted under this Act,
- (iv) interferes with the calibrated settings on a machine, to enable it perform in a manner or for a purpose not permitted by a licence, or
- (v) who aids or abets another in any of the above through the supply of machines, games, finance, employment or advice.

is guilty of an offence and is liable to the penalties as set down in Schedule 5.

## **Head 63: Offences – ancillary matters**

(1)

- (i) The maximum penalty for an offence in column 1 of Schedule 5 is that set out in column 4 of that Schedule.
- (ii) Proceedings may be brought after a licence has expired where the offence occurred while the licence was extant, whether or not the offence had come to light while the licence was extant.

(2)

- (i) The OGCI may at any time after proceedings have been initiated and on notice to the defendant, apply to the court for an order suspending the licence of a licence holder who is the subject of the proceedings pending the hearing of the case.

The court may grant the order or may make such order as it deems appropriate in the circumstances.

- (ii) Upon conviction for an offence included in Schedule 5, the OGCI may apply to the court and having regard to the circumstances and seriousness of the offence, the court may, in addition to any other penalty imposed, grant an order
  - (a) suspending the licence for a period of up to 8 weeks, or
  - (b) revoking the licence.
- (iii) Any person against whom an order under (i) or (ii) of this paragraph is made may appeal the order to the Circuit Court.  
An appeal against an order under (ii) may be brought even if no appeal is brought against the conviction or against the sentence imposed.

(3) It shall be a defence for the licence holder to demonstrate that he or she took all reasonable steps

- (i) to prevent persons under the age of 18 years from engaging in gambling,
- (ii) to determine the individual's age and that he or she reasonably believed that the individual was not a person under 18 years,
- (iii) to comply with Head 70(6).



(4) The court may make an order for the payment of a fine and any costs awarded against the defendant from the security lodged under Head 46.

(5) The court may make orders for forfeiture / confiscation under sections 61 or 9 of the Criminal Justice Act 1994 in respect of proceedings brought under this Act for offences mentioned in Schedule 5.

(6) OGCi may apply for an order requiring the convicted party to pay the legal and other costs incurred by it in bringing the prosecution.

#### **Head 64: Manipulation with intent to alter outcome**

(1) It is an offence for any person to offer inducements to a participant in a game, including any event on which the holder of a category 1 (A to K inclusive), 2G or 3 (A & B) licence is entitled to accept a bet, with a view to betting on a particular score (whether at any point during the game or at the end) or outcome being achieved.

(2) It is an offence for any participant, including players, the management personnel or medical and technical support personnel, to accept any payment, gift or reward in return for agreeing, in so far as that person can, to bring about the score or outcome referred to at paragraph 1.

(3) A licence holder who becomes aware of betting patterns that suggest to that licence holder that an offence under paragraph 1 or 2 has been committed or attempted may:

- (i) refuse to accept the bet or bets,
- (ii) suspend betting on the game or event in question,
- (iii) may withhold payment on a bet,
- (iv) and the licence holder shall, without delay, inform OGCi of its actions and the reasons for its decision to refuse, suspend betting and to withhold payment.

(4) OGCi shall, where it has reason to believe that the event is on-going or where payments have not been made, take such steps as are appropriate to inform other licence holders, bearing in mind the need to avoid jeopardising any investigation that may be under way or any proceedings that may have commenced.

(5) OGCi shall notify the Gardaí without delay, and without prejudice to the fact that a licence holder may also have informed the Gardaí of the information in its possession.

(6) OGCi shall alert any agency in another state with functions the same as or similar to its own of the information in its possession where it has reason to believe the events referred to in paragraph 1 or where the persons in paragraph 1 or 2 are located or taking place.

(7) Anyone who attempts or conspires with others in the case of the offences at paragraph 1, 2 shall be guilty of the offence, even where the offence did not occur or where the score or outcome being proposed or planned was not achieved.

(8) Anyone guilty of an offence under paragraph 1 or 2 shall be liable to the penalties as outlined in Schedule 5.

- (9) Without prejudice to any liability incurred by a licence holder under paragraph 7, OGCI may, where a licence holder fails to inform it as required by paragraph 3,
- (i) undertake a review of the licence and
  - (ii) it may suspend the licence of a licence holder pending the outcome of the review.
  - (iii) The OGCI may at the conclusion of the review do one or more or all of the following:
    - (a) issue a formal rebuke,
    - (b) revoke the licence or
    - (c) impose a fine.

## **Head 65: Cheating**

- (1) A person commits an offence if he / she
- (i) cheats at gambling
  - (ii) does anything for the purpose of enabling or assisting another person to cheat at gambling.
- (2) It shall be immaterial whether a person who cheats
- (i) improves his / her chance of winning, or
  - (ii) wins anything.
- (3) Cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with
- (i) the process by which gambling is conducted, or
  - (ii) with a real or virtual game, race or other event or process to which gambling relates.
- (4) A person guilty of an offence under this Head shall be liable to the penalties as outlined in Schedule 5.

## **Part 6: Safeguards**

### **Head 66: General requirement to review operation**

- (1)
- (i) Every licence holder must undertake at regular intervals a review of the service covered by the licence and shall in particular include a report of a review when he / she applies for a licence. The review shall have as its aims:
    - (a) maximise compliance with the primary purposes in Head 4,
    - (b) identify the parts of the service or the parts of the accompanying procedures
      - that are likely to assist anyone who is not permitted to partake in gambling (in particular children), or
      - that are being availed of in a manner or to an extent that is likely to be detrimental to the person or to other persons,and
    - (c) the licence holder shall identify the measures, including staff awareness and training programmes, to be implemented to address the potential risk or risks.
  - (ii) The applicant must include (when submitting the application) the outcome of the review, in addition to the information mentioned in Head 31.

- (2) The review shall address, in particular,
- (i) the systems required to minimise the risks of persons who are under-age partaking in gambling,
  - (ii) arrangements to monitor patterns of gambling by individual players where there are grounds to believe that the pattern may indicate a level of participation that is detrimental to the person's wellbeing or that of his or her family.
  - (iii) the arrangements to confirm the identity, including age, of persons who engage either personally or by any remote means with the service in respect of which the licence holder holds the licence, where the person indicates his / her intention to partake of the service.
  - (iv) the arrangements for verifying player identification, as well as due diligence procedures.
- (3) The requirements at paragraph 1 and 2 shall be continuing requirements throughout the duration of the licence (if granted).

#### **Head 67: Promoting customer awareness**

- (1) The licence holder shall take steps to increase awareness amongst users of the service of how to gamble responsibly and of possible risks from the misuse of gambling.
- (2) The steps shall apply at all points of access to the service, whether in a premises or by remote means.
- (3) The measures shall include prominently displayed posters and easily available information leaflets or links on the "home page" of an on-line service.

#### **Head 68: Credit facility not permitted**

- (1) The licence holder shall not offer, extend to or permit to a person availing of the licensed service any credit facility whereby the person may pay to the licensed holder the stake or bet as the case may be from winnings, if any and where, in the event of no winnings, the amount owing to the licence holder accumulates and is set-off against future winnings.
- (2) A licence holder who contravenes this Head shall be guilty of an offence and liable to the penalties as outlined in Schedule 5.

#### **Head 69: When only "player cards" permitted**

- (1) This Head applies in cases where
- (i) a player plays a game that is available on a machine or by remote means, and
  - (ii) the player, for purposes of playing the game, operates the machine or has access to the remote service (i.e. no intermediary), and
  - (iii) the payment of a fee is required to play or to continue playing the game.
- (2) The OGCI may specify
- (i) a machine or class of machine as a machine or class of machine to which paragraph 1 applies,

- (ii) or games available on the machine or remotely
- (iii) as machines or games to which this Head applies, with the result that the machine or class or game must be programmed to accept payment by means of a player card only.

(3) A player card is a card whose only function is to enable a person play a machine or game referred to at paragraph 2 or to continue playing the game or the machine. A reference to a “card” may include a reference to a unique code (of numbers or letters or both), however it is presented.

(4) The player card

- (i) shall be available only at, and may only be purchased at or in the venue where the machine is located
- (ii) where it is a remote service, the method of payment shall be limited to the player card.
- (iii) No more than one card may be purchased at a time,
- (iv) A customer shall not be permitted to purchase more than five player cards per day.
- (v) the card shall have a maximum value, specified by OGCI in the licence,
- (vi) That maximum value
  - (a) may vary from one class of game or machine to another and
  - (b) may be altered from time to time by the Chief Officer, OGCI following consultations with the Minister

but shall not exceed the amount required for playing the game on five occasions.

(vii) The Minister may make an Order specifying the maximum amount that can be spent on player cards per day.

(5) OGCI shall establish a central database and all operators shall record on it details of all “player cards” issued by them and the operator shall check the database to ensure compliance with daily limits on cards etc.

(6) The Data Protection Acts shall apply to the database but OGCI shall be granted access as required by Part 4, otherwise access shall be granted to licence holders and their employees only.

(7) The onus is on the licence holder

- (i) to ensure the security and safe custody of player cards,
- (ii) to observe the pattern of use by individual customers,
- (iii) to take steps to prevent and address over-use.

### **Head 70: No “young persons” as employees or players**

(1) A licence holder shall not employ a young person in connection with the delivery of the licensed service.

(2) Employment in this Head includes paid and unpaid placements, as well as part-time and occasional employment. It refers also to any position at a place used to provide or support the delivery of the service, where the position in question involves any level of involvement in the delivery of the service.

(3) A licence holder who employs a young person in a premises while the gambling service in question is available in, is being provided from or is accessible at that premises, shall be guilty of an offence and liable to the penalties as outlined in Schedule 5.

(4) A licence holder who believes

- (i) a person is under-age and that he / she has partaken in gambling or
- (ii) that the evidence available suggests that a person's gambling habit is detrimental to the person or to his / her family, or
- (iii) there are reasonable grounds to doubt the identity of a person engaging remotely with the service

may take such steps as are reasonable, up to and including preventing the person in question from participating, either for a set period or for a renewable period, in the gambling service which is the subject of the licence holder's licence, and the licence holder shall not be liable to that person for any loss or inconvenience arising.

(5) A licence holder who

- (i) wilfully or negligently allows a young person to use a gambling service, or
- (ii) permits a young person to be in a premises specified in a licence issued under this Act while the service (other than 1G: on-course betting) in question is available in, is being provided from or is accessible at that premises,

shall be guilty of an offence and liable to the penalties as outlined in Schedule 5.

(6)

- (i) In the event of a licence holder being prosecuted for the offences at paragraph 5, the licence holder may raise his / her compliance with Head 66 as a defence, and the court (or jury, as the case may be) shall take account of the manner and extent to which the licence holder complied with that Head.
- (ii) In the event of a conviction for an offence under paragraph 5 the level of compliance with Head 66 shall be a mitigating factor to be considered by the court when imposing sentence.

### **Head 71: Self-exclusion register**

(1) For the purposes of this Head, "self-exclusion" means a voluntary process, as set out at paragraph 2, whereby a person with a gambling concern can have themselves excluded from specific gambling venues, or from accessing gambling products provided by particular providers.

(2) OGC I shall maintain a register of all persons who have entered into self-exclusion arrangements with licence holders and, subject to paragraphs 7 and 8 below, it shall make information relating to a named person available on request to some or all current licence holders.

(3) A person who enters into an arrangement

- (i) shall do so in writing,

- (ii) for a minimum period of one month,
- (iii) on the condition that such details as are necessary to verify his identity shall be supplied to OGCI, and
- (iv) that OGCI may make that information available to any licence holder.

(4) An arrangement may be terminated by the person by giving notice in writing to the licence holder with whom he entered the arrangement or another licence holder for the same licence or in the event of that licensed service having terminated, to the OGCI.

(5) The licence holder who receives the written notice in paragraph 4 shall notify the OGCI and the OGCI shall remove the entry in the register forthwith.

(6) Removal from the register is without prejudice to the right to seek re-admission.

(7) Neither the licence holder nor the OGCI shall incur any liability arising from the bona fide disclosure of information on the register where it is disclosed in accordance with this section.

(8) Information recorded in a self-exclusion register is personal information as defined in the Data Protection Acts and shall, other than as permitted by this section, be treated as such.

(9) A person, who knowingly releases information contained on a self-exclusion register to a party other than such as approved under this Act, shall be guilty of an offence.

(10) A person guilty of an offence under this Head shall be liable to the penalties as outlined in Schedule 5.

## **Head 72: Advertising and gambling**

(1) In this section, “advertisement” includes, in relation to a gambling product, every form of recommendation of the product to the public, whether by means of print or electronic media, and, in particular

- (a) a statement of the name of a gambling service provider, or the name of any brand of gambling product associated with such providers such as games permitted under remote gaming licences 2O, 2P or 2Q, or
- (b) a statement of any trade description or designation, or a display or other publication of a trademark, emblem, marketing image or logo, by reference to which the service or product is marketed or sold,

in circumstances where such statement, display or publication may reasonably be regarded as a recommendation of the service or product to the public and cognate words shall be construed accordingly.

(2)

- (i) It is an offence to advertise gambling services and products other than in accordance with this Act. Advertising is permitted under this Act
  - (a) where the service or product is available to persons in the State, but only where the operator has a licence for the service / product in question, or

- (b) if the service / product is not available to persons in the State but is available in another state (including in any EU Member State), but only where the operator holds a licence in that other state for that service / product and where the advertisement makes clear that the service / product is not available or licensed in the State.
  - (ii) The Minister may request the OGC I to develop rules governing the advertising of gambling and
  - (iii) Without prejudice to paragraph 4, the Minister may make such Order as appropriate to bring the rules into force.
  - (iv) Different rules may apply to
    - (a) products offered under different licence categories,
    - (b) advertising in different media and in different locations, and
    - (c) at different times of the day, week or year.
  - (v) An Order may include such terms and conditions as deemed appropriate (including such restrictions and prohibitions as the Minister considers appropriate) and all advertising of gambling shall conform to those terms and conditions.
- (3) The rules referred to at paragraph (2) shall have regard to, but not be limited to, the following principles:
- (i) Advertisements for gambling must never feature children or young persons;
  - (ii) Advertisements must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons;
  - (iii) Advertisements must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture;
  - (iv) Advertisements must not contain endorsements by recognisable figures who would be regarded as idols by young persons;
  - (v) Advertisements must not suggest that gambling is a rite of passage;
  - (vi) Advertisements must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm;
  - (vii) Advertisements must not suggest that gambling can be a solution to financial concerns;
  - (viii) Advertisements must not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration;
  - (ix) All advertisements for gambling services or products shall contain a message to encourage responsible gambling and shall direct people to a source of information about gambling and gambling responsibly.
- (4) Notwithstanding other provisions of this Head, the Minister may, in respect of broadcast events, make Orders:
- (i) providing that advertisements on radio or television featuring or identifying specific categories of gambling service providers shall not be permitted before the commonly accepted watershed time, or, where permitted, that such terms and conditions as the Minister deems appropriate shall be observed.
  - (ii) Where a sporting event is being broadcast before the watershed time, advertisements relating to holders of a category 1 licence may be permitted during the intervals of said broadcast provided that they relate specifically to that event.

(5)

- (i) The Minister may, by Order, provide that advertisements on radio or television featuring certain categories of (bingo) licence holders (2L – 2N) may, subject to (ii), be permitted at any time.
- (ii) (i) may be dis-applied in respect of times dedicated specifically to children’s programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18 years.

(6) Advertising of gambling services and products is not to be permitted in or adjacent to children’s programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18 years;

(7) Any licence holder who knowingly contravenes the Order under this Head shall be liable, on summary conviction to the penalties as outlined in Schedule 5.

(8) A person who delivers, broadcasts or transmits a communication in contravention of paragraph 2(i) shall be guilty of an offence and liable to the penalties as outlined in Schedule 5.

### **Head 73: Promotions and gambling**

(1) In this section, “promotion” means making services available on advantageous terms, including costs that are reduced or are linked to additional benefit.

(2)

- (i) Information detailing special offers, discounts, inducements to visit any gambling establishment (including on-line), references to betting odds available or any promotional offer intended to encourage the use of services of this nature, made available to the public at large, shall be permitted only during
  - (a) opening hours on the day when it applies or
  - (b) where it is a remote service, for a period not in excess of 12 hours.
- (ii) Each promotion shall contain, in a form agreed with OGCI, warnings on the risks associated with gambling as well as information on services assisting persons in difficulty as a result of gambling.

(3) An exception to paragraph (2) above shall be offers:

- (i) which are not announced in advance,
- (ii) They are made available to customers only after they had begun to avail of or while they are freely availing of gambling services, and
- (iii) The offers do not require a larger outlay by the customer who avails of them.

(4) Any licence holder who knowingly contravenes paragraph 2 above shall be liable on summary conviction to the penalties as outlined in Schedule 5.

### **Head 74: Sponsorship by gambling licence holders**

(1) In this section, “sponsorship” means

- (i) a commercial agreement by which
- (ii) a sponsor, for the mutual benefit of the sponsor and sponsored party, contractually provides financing or other support



- (iii) in order to or which has the effect of establishing an association between the sponsor's image, brands or products and a sponsorship property
  - (iv) in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits, and
  - (v) it is a sponsorship within the meaning in this section whether or not the sponsorship has aims or effects other than, aside from or in addition to those set out in this Head.
- (2) Any events sponsored by licence holders must be primarily of appeal to individuals over the age of 18 years.
- (3) Licence holders shall not sponsor any individual below the age of 18 years or any team at least some of whose members are below the age of 18 years.
- (4) Licence holders shall not sponsor individuals or groups who predominantly appeal to those below the age of 18 years.
- (5) All advertising for the sponsorship will have to comply with the rules governing advertising as developed by OGCI and set out in an Order of the Minister.
- (6) Branded merchandise of a licence holder shall not be designed to overtly appeal to those below the age of 18 years.
- (7) Where events are held solely for those below the age of 18 years, the premises holder should make every reasonable effort to cover over branded advertisements for licence holders.
- (8) References to "licence holders" includes
- (i) reference to the corporate entity by virtue of being an office holder or designated person of that entity, where the person is a licence holder;
  - (ii) reference to all related corporate entities within a group of companies etc.
- (9) Any licence holder who knowingly contravenes these rules shall be liable to the penalties as outlined in Schedule 5.

## **Head 75: Complaints and compensation arrangements**

- (1)
- (i) The procedure under this Head shall be operated by licence holders in accordance with this Head.
  - (ii) Each service licence holder shall provide or shall subscribe to and commit resources to fund and operate a procedure for the receipt of and processing of complaints from customers about the quality, operation or delivery of particular and specific transactions.
  - (iii) A fund may be specific to the licence holder or may be established by more than one licence holder and operated on a shared basis.
- (2)
- (i) The details of the procedure (including the arrangement for the management of the funds provided by the licence holder) shall be submitted to the OGCI within six months of the commencement of a licence (other than a category 2S, 2T, 4A, 4B &

- 4C) for its approval and may be brought into operation only after it is approval by the OGCI.
- (ii) A licence holder who fails to comply with the deadline in (i) may be subject to a monetary penalty for each week in excess of the deadline, until a procedure is put in place.
  - (iii) The OGCI may not approve a procedure until the penalties are paid in full.
  - (iv) The penalty per week shall equate to 1/52 of the licence fee paid by the licence holder and may be deducted from the security referred to in Head 46.
  - (v) Failure to pay the penalty within 4 weeks of being notified may result in the licence being suspended until all payments and arrears are paid.
- (3) The OGCI shall not approve a procedure unless it is satisfied that
- (i) it ensures full, fair and prompt treatment of customers' complaints,
  - (ii) there is independent decision making on complaints and on the award of compensation.
  - (iii) Those making the decisions are competent and independent.
- (4) An approved procedure shall be publicised and drawn to the attention of customers in accordance with Head 67.
- (5)
- (i) The OGCI shall satisfy itself about the proposed procedure, in particular about the level of reserves set aside for payment of compensation to customers and for the management of the reserves.
  - (ii) It shall require annual returns and shall satisfy itself about the level of complaints, where that level is not in line with the norm.
- (6)
- (i) All complaints relating to this [Act] [Head] must, in the first instance, be pursued under this Head.
  - (ii) No further action in pursuit of a complaint may be taken by a customer who accepts an amount in compensation.

### **Head 76: Advisory Committee**

- (1) The OGCI shall establish an advisory committee on responsible gambling.
- (2) It shall consist of a nominee of the Minister for Social Protection, the voluntary / community sector, a representative from the HSE and two representatives from licence holders.
- (3) The committee shall be appointed by the chief officer, OGCI
- (4) It shall be chaired by the chief officer or by another officer of the OGCI nominated by the chief officer.
- (5) Each appointment shall be for a maximum of three years and may be renewed.
- (6) The committee shall be supported by secretarial resources from OGCI and it shall meet at least three times annually.

(7) Its function is to review policies and practices in place under this Part, to prepare commentary on those policies and practices, to monitor developments in this area and to highlight and bring to bear those elements likely to assist licence holders discharge their obligations.

## **Part 7: Social Fund**

### **Head 77: Establishment of Fund**

(1) Subject to Head 80(2), a fund, to be known as the Social Fund, shall be established by Order of the Minister.

(2) It shall be funded from contributions paid by service licence holders.

(3) The level of contribution shall be fixed by the Minister as a percentage of the turn-over generated by the licensed service.

(4) The Minister shall, when determining the level of contribution, have regard to a report to be prepared by the chief officer, OGCI, following such consultations as are appropriate with service licence holders or their representatives.

(5) The chief officer, OGCI shall consult the Advisory Committee on Socially Responsible Gambling (Head 76), and the Advisory Committee's views shall be recorded in the report to the Minister.

(6) Any Order made under this section and the level of contribution fixed therein may be revoked and replaced by a new Order and a new level of contribution.

### **Head 78: Purposes of the Fund**

(1) The joint purposes of the Fund shall be:

- (i) to promote socially responsible gambling and
- (ii) to assist in counter-acting the ill-effects for society, as well as for persons and their families, of irresponsible gambling

(2) The purposes at paragraph 1 may include:

- (i) public education and awareness raising programmes (including programmes targeted at specific groups or sectors in society),
- (ii) commissioning or undertaking of research, including fact-finding and attitudinal surveys,
- (iii) assistance in establishing and operating and evaluating treatment programmes,
- (iv) the production of materials for use by or in connection with any of the above.

(3) The Fund may participate with other persons

- (i) in programmes that are consistent with its purposes and that promote its objectives,
- (ii) in multi-state programmes, where the programme is beneficial to persons in the State who are subject to the ill-effects of gambling.

## **Head 79: Administration and management of the Fund**

- (1) The Fund shall be administered by OGCI,
- (2) The Socially Responsible Gambling Committee established under Head 76 shall perform a supervisory role.
- (3) For that purpose, the chief officer shall provide the Committee with any information reasonably sought by it, including a set of audited accounts of the Fund.
- (4) The committee may report to the Minister as such intervals as it or the Minister considers appropriate but shall do so at least once in each calendar year.
- (5) The committee may make such comment and recommendation as it considers appropriate and may include these in its report to the Minister.
- (6) The committee shall, in particular, satisfy itself as to the procedures and processes employed to allocate funding and for the assessment of outcomes.
- (7) The Minister may set a figure / percentage as the maximum expenditure to be incurred on administration of the Fund.

## **Head 80: Commencement of this Part**

- (1) Subject to paragraph 2, this Part shall be commenced and the first Order under Head 77 shall be made not later than one year following the enactment of this Act.
- (2) No Order shall be made under paragraph 1, and an Order in place may be revoked if the Minister is satisfied
  - (i) that one or more funds has been established by or on behalf the service licence holders
  - (ii) that, subject to paragraph 4 below, all the service licence holders are contributing, or are committed to doing so,
  - (iii) that the fund meets the purposes in Head 78,
  - (iv) that the level of contribution is adequate and
  - (v) that it is secured for a period of at least three years.
- (3) a fund established by service licence holders under paragraph (2) of this Head shall be subject to Head 79 (as if the Fund was established under Head 76, 77).
- (4)
  - (i) A service licence holder who does not participate in a Fund set up under paragraph 2, shall pay to the Minister a contribution at a level fixed for the fund (or agreed to by the Minister).
  - (ii) The OGCI may suspend the licence of a service operator to whom this paragraph applies, who fails to make contributions under (i).

## **Head 81: If a licence holder withholds or withdraws contribution**

- (1) The supervisory board shall, without delay, notify the OGCI where a service licence holder withholds or withdraws from funding a Fund established under this Part, whether it was established in accordance with Head 77 or 80.
- (2) The OGCI shall enter discussions with a view to ascertaining the licence holder's position and may suspend the licence granted to the licence holder in question for the duration of the discussions.
- (3) The suspension shall be lifted when agreement has been reached on resolving the matter, including the payment of arrears (and, assuming no other interruptions, the licence shall continue until the expiry date fixed at the time of award). Terms may be agreed on the timing and frequency of payments but there may be no variation on the basis upon which the contribution is calculated.
- (4) The suspension shall be lifted when agreement has been arrived at but may be re-imposed if the agreed terms are not complied with or where funding is withdrawn or withheld for new / separate/ different reasons.
- (5) OGCI may agree, for the remainder of a licence period to an 'opt out' by a licence holder but only if the licence holder adopts / supports measure of equal importance to those required of participate in the fund.

## **Part 8: Miscellaneous**

### **Head 82: Repeals, etc**

Subject to Head 2(1)(v),

- (i) the Betting Act 1931, as amended by \_\_\_\_\_, is hereby repealed.
- (ii) the Gaming and Lotteries Act 1956, as amended by \_\_\_\_\_, is hereby repealed.
- (iii) the Finance Act 1992, Part II, chapter III, as amended by \_\_\_\_\_, is hereby repealed.
- (iv) the Criminal Justice (Money laundering and Terrorist Financing) Act 2010 is amended by .....
- (v) the Bail Act 1997, Schedule is amended by..... [the inclusion of the offence of conspiracy to defraud and the other wider offences under this Act]
- (vi) the Criminal Justice Act 2011, Schedule 1 is amended by..... [the inclusion of an offence under Heads 64 and 65 of this Act]

### **Head 83: Gambling contracts**

- (1) For the purposes of this Head, "gambling contract" means a contract whose performance by one party is contingent on the outcome of a bet.
- (2) An enforceable contract shall be deemed to be in place each time a bet – other than a bet placed by a young person – is placed by a party with a category 1A – 1K, 3A – B or 2G service licence holder, unless the contrary is shown.

(3) [The OGCI or] a party to a gambling contract who has good reason to believe that the bet was substantially unfair, may apply to the Circuit Court for an Order in relation to a bet accepted by or through the holder of a licence in a category mentioned at paragraph 2 above and the bet shall as a result be void.

A bet placed by a young person shall always be void.

(4) In considering whether a bet was substantially unfair, the court shall take the following into account:

- (i) the fact that either party supplied information that was insufficient, false or misleading in relation to the bet and that the other acted on or was influenced to accept the bet by that information.
- (ii) the fact that either party to the bet believed, or ought to have believed that the event to which the bet related was contrary to law or public policy or was otherwise not permitted by the rules of the relevant industry or sport;
- (iii) the fact that either party to the bet knew or believed when placing the bet that an offence under Heads [64 or 65] was or was intended to be committed as a result of the bet being made;
- (iv) the fact that either party to the bet had been convicted of an offence under Heads [64 or 65] in relation to the bet in question,
- (v) other relevant information.

(5) The court may only make such an Order in relation to a bet during the period of six months beginning with the day on which the result of the bet is determined.

(6) Where an Order is made in relation to a bet

- (i) any contract or other arrangement in relation to the bet is void, and
- (ii) any money paid in relation to the bet (whether by way of stakes, winnings, commission or otherwise) shall be repaid to the person who paid it, and repayment may be enforced as a debt due to that person.

(7) A party affected by an Order may appeal the Order to the High Court, but on a point of law only

(8) A party to a bet in relation to which an Order has been made in accordance with paragraph 4, may take proceedings in the event of any failure by the other party to comply.

## **Schedule 1: Licences that may be Issued (Heads 15, 17)**

### ***Part A – Summary***

#### **1. Categories**

(a) Licences [43 categories]\*

<b>Category</b>	<b>Activity</b>
1 [A – K] [17]	Betting – land based and remote
2 [A – W] [23]	Gaming – land based and remote
3 [A – B] [2]	Remote – mixed betting and gaming
4 [A – C] [3]	Temporary licences – all types

\* General rule: Licences required in all cases where the customer is in the State, except small scale lotteries – see below.

(b) Registration [2 categories]

1 Service Facility in the State	The facility supports a service which is not available nor availed of in the State
2 Suppliers	Suppliers of machinery, services to the gambling industry

## 2. Types of licence, per category

<b>Category 1: Betting – the basic licences</b>	1A, 1B, 1C,	Land based bookmakers
	1D	Land based but with some remote service
	1E, 1F	Remote betting
	1G	On-course betting
	1I, 1J, 1K	Betting exchanges, pool betting, spread betting

<b>Category 2: Gaming – the basic licences</b>	2A	Gaming arcades
	2B	Amusement centres
	2C, 2D, 2F	Gaming at festivals, etc.
	2H, 2I, 2J, 2K	Lotteries*
	2L, 2M, 2N	Bingo
	2Q	Remote bingo
	2R	Casinos**
	2O, 2P	Remote gaming
	2S, 2T	On ships
	2W	Tournaments

\* Some small scale lotteries exempt from licensing requirement (see Head 19(2)).

\*\* Casino games permitted in casinos (licence 2R) or by remote means (2O, 2P).

<b>Category 3: Where remote services include gaming and betting</b>	3A	Where service provider is in the State
	3B	Where support facility is located in the State

<b>Category 4: Temporary licences</b>	4A	Betting or gaming, unforeseen development
	4B (i), (ii)	Special events and circumstances

<b>Hybrid / Cross-over licences</b>	2E	Limited gaming in catering outlets, bars
	2G	Limited gaming in betting shops

<b>Personal licences*</b>	1H	Betting
	2U	Casino
	2V	Gaming
	4C	Temporary

\* The requirement to have a personal licence will depend on the nature of duties.



**Part B – More detailed provisions on licences\***

\* See also Head 17 (where indicated)

\*\* Column 6: The main purpose of column 6 is to provide clarifications / explanations. It differs from Head 17 in that the material in Head 17 indicates matters that will be in the legislation as requirements. However, to assist in giving a full account of each proposal, column 6 includes cross references to relevant paragraphs in Head 17.

<b>(1) Description</b>	<b>(2) Category</b>	<b>(3) Sub category</b>	<b>(4) Maximum duration of licence – see Head 41</b>	<b>(5) Maximum hours of business – see Head 42</b>	<b>(6) ** Notes / comment</b>
<b>Part 1. Betting</b>	1: Land-based outlets	<b>1A</b> (up to but not more than 3 premises),	Three years	Not before 7.00 am, not after 10.00 pm	Land based betting shops divided into 1A,1B, 1C by size of operation – fees will be fixed accordingly as well as number of named licence holders – see Schedule 2.
		<b>1B</b> (4 or more but no more than 10 premises)	Three years	As per 1A	(1) See note at 1A (2) See Head 17(1)
		<b>1C</b> (more than 10 premises)	Three years	As per 1A	(1) See note at 1A (2) See Head 17(2)
	1: Land-based outlets but with some remote business	<b>1D</b> (holding a 1A, 1B, or 1C licence and where no more than 25% of turnover is from remote betting)	Three years	As per 1A	(1) See Head 17(3)  (2) See also licence 2G.
	1: Remote betting	<b>1E</b> (remote betting service available to consumers in the State)	Two years		An operator having a land business and a remote business and if category 1D does not apply, will

					require separate licences for each operation.
		<b>1F</b> (facility in the State, providing support for service in the State)	Two years		Where operator giving service in the State <u>and located here</u> , then 1F applies. If “facility” located <u>outside</u> the State, then it’s 1E, 1I, 1J, 1K.
	1: On-course betting	<b>1G</b> (where the course is in the State, and service is of the type covered by a 1A, 1B & 1C licence.	Three years		See Head 17(5)
	1: Personal licence	<b>1H</b> (certain persons in respect of licences 1A, 1B, 1C, 1D, 2G).	One year		Posts, the holders of which may be required to hold a personal licence, will be designated by OGCI.
	1: Betting exchanges	<b>1I</b> (where service is available to customers in the State)	Two year		See note on 1F.
	1: Spread betting	<b>1J</b> (where service is available in to customers in the State)	Two year		As 1I above.
	1: Pool betting	<b>1K</b> (where service is available to customers in the State)	Two year		As 1I above
<b>Part 2. Gaming</b>	2: Gaming Hall or Arcade	2A (fixed facility having gaming machines and	Three years	(i) from 1 May to end Sept, - not before 10.00	See Head 17(6)

		open to adults only), and where up to 20% of turnover may be derived by remote means.		am, not after 1.30 am, (ii) rest of year, not before 10.00 am, not after 12.00 midnight.	
	2: Amusement Hall or Arcade	2B (fixed facility providing amusement machines only and open to adults and young persons)	Three years	Opening times as at 2A, closing times, 10.30 pm and 9.00 respectively.	See Head 17(6)
	2: Mobile gaming facility	2C (includes funfair, travelling circus and entertainment troupes)	Duration of events, maximum one year	As per 2A	(1) caters for circuses, they may return several times per year (2) no gambling allowed by young persons
	2: Short term gaming facility	2D (fixed or temporary facility open for up to 3 months p.a.)	Duration– maximum 3 months	As per 2A	(1) Summer festivals, for example (2) no gambling by young persons
	[ 2: Gaming in catering outlets etc ]	[2E (in premises whose main or only business is retailing food that is ready for consumption, or having a liquor licence)]	One year	[3.00 pm to 10.00 pm, except where liquor licence – 4.00 pm to 9.00 pm [or 9.30 pm in designated places between May / Sept each year] ]	See Head 17(8)
	2: Gaming in a public place	2F (gaming made available in a place as defined in Head 1) [other than where 2C, 2D apply]	Two year	8.00 am to 12.00 midnight	A “catch-all” to cover concourses in shopping centres, airports, etc
	2. Gaming in betting shops	2G (in premises	Two years	Between 10.00 am –	(1) See also 1D – total t/o

		having a category 1A, 1B, 1C, or 1D licence) but where t/over from gaming is no more than 15% of total turnover.		10.00 pm	from remote betting and gaming not to exceed 40%.  (3) See Head 17(9).
	2: Lotteries (excluding NL)	2H	Two years		See Head 19(4)
		2I	Two years		See Head 19(5)
		2I	One year		See Head 19(6)
	2: Temporary lottery licence	2J: sales or marketing initiative	One month		See Head 19(7)
	2: Scratch cards	2K	One year		See Head 19(8)
	2: Bingo	2L	Two years		See Head 20(3)
		2M	Two years		See Head 20(3)
		2N	Two years		See Head 20(3)
	2: Remote gaming	2O – as per 1E above	Two years		
		2P – as per 1F above	Two years		
	2: Remote Bingo	2Q	One year		See Head 20(4)
	2: Casino	2R	Ten years	Between 11.00 am – 4.30 am following.	
	2: Cruise Ships	2S	One month		See Head 17(9)
	2: Passenger Ferries	2T	One year		See Head 17(10)
	2: Personal / casino	2U	One year		
	2. Personal/ gaming	2V	One year		
	2: Gaming tournaments	2W	One week		See Head 17(11)
<b>Part 3. Mixed remote</b>	3. Gaming + betting	3A – as per 2N and 1E above	Two years		
		3B – as per 2O, 1F above	Two years		
<b>Part 4. Temporary</b>	4. Special circumstances	4A - betting or gaming : unforeseen development	Max 3 months [2+1]	As per main licence category	See Head 17(12)

		4B (i) – special events including events up to 5 days.	One week	As required but not beyond / outside 2A	Local events such as race nights, poker nights
		4B (ii) Premises licence required in conjunction with 2V licence	One week	As required but not beyond / outside 2A	Hosting professional gaming tournaments
		4C – personal licences, to bridge time gap between a holder ceasing ahead of time and new appointment.	One month		See Head 17(13)

## Schedule 2: Numbers of Qualifying Officers Required as Licence Holders (Head 25)

Category of licence	Minimum number of licence holders required
1A	1
1B	2
1C	3 (between 10 - 25 premises, 5 (where there are more than 25 premises)
1D	No additional requirement (over and above that required by the relevant category 1 licence)
1E, 1F, 1G	3
1I, 1J, 1K	2
2A, 2B, 2C, 2D, 2G, 2V	2
2E, 2F, 2H, 2I, 2J, 2K, 2L, 2M, 2N	1
2O, 2P	3
2Q	2
2S, 2T	2 (at least one of whom shall be the captain or chief officer of the ship)
2R	2
3A, 3B	3 (the persons may be the same as, or drawn from the combined list of category 3 and 6 licence holders for the operation concerned, with at least one from the category 3 list and one from category 6)

### **Schedule 3: Newspaper Notice (Head 29)**

A notice required by Head 29 shall, as a minimum contain the following:

“Gambling Control Act 2012

Notice of Intention to Seek Licence

I /We hereby give notice of my / our intention to apply to the OFFICE FOR GAMBLING CONTROL (OGCI) for a category \_\_\_\_\_ gambling licence to operate a service namely (description of proposed service)

\_\_\_\_\_  
\_\_\_\_\_

in accordance with the Gambling Control Act 2012.

Any person seeking further information may contact the OGCI (contact details)

Name:

Business Address

Date “

### **Schedule 4: Cooperation with other Bodies (Heads 34, 56, 57)**

- (1) The OGCI may enter into reciprocal agreements for the exchange of information:
  - (i) for the purposes of checking the accuracy of information supplied by or on behalf of an applicant for a licence under this Act.
  - (ii) for the purpose of checking the accuracy of information in the possession of the OGCI relating to an applicant or a licence holder.
  - (iii) to make an agency in another state, where that other state is affiliated to an agency listed in Part B below and where the other agency has functions similar to those of the OGCI of any relevant matter uncovered by OGCI during the course of an inspection.
- (2) The OGCI’s communications with any agency, body or person named in part B shall be directed through the established contact point in the State for communications with the party mentioned in Part B, however that contact point is described and whether established by statute or administratively.

#### ***Part A***

An Garda Síochána,

Department of Social Protection,  
The Revenue Commissioners,  
Data Protection Commissioner,  
The Competition Authority,  
The Companies Officer  
Office of Director of Corporate Enforcement,  
The Courts Service,  
The Private Security Authority,  
National Consumer Agency  
[The Charities ]

**Part B**

Europol,  
Interpol,  
“Relevant authority” in another state (Criminal Justice (Mutual Assistance) Act 2008).

**Schedule 5: Offences and Penalties [Head 60]**

(1) Relevant Head	(2) Nature of offence	(3) Mode of prosecution	(4) Maximum penalty
16(3)	Failing to register	Summary	Class A fine and/or 12 months imprisonment
18(11)	Employment of persons without appropriate personal licences (casinos)	Summary	Class A fine and/or 12 months imprisonment
18(12)	Supplying a game in a casino in contravention of a licence	Summary	Class A fine and/or 12 months imprisonment
19(8)(i)	Lottery offences (misuse of profits)	Summary	Class A fine and/or 12 months imprisonment
19(8)(ii)	Lottery offences (record keeping)	Summary	Class A fine and/or 6 months imprisonment
20(8)(i)	Bingo offences (misuse of profits)	Summary	Class A fine and/or 12 months imprisonment
20(8)(ii)	Bingo offences (record keeping)	Summary	Class A fine and/or 6 months imprisonment
31(3), 42(5) & 50(6)	Provision of false or misleading information to OGCI	(a) Summary (b) Indictment	(a) Class A fine and/or 12 months imprisonment (b) Fine of €50,000 and/or 2 years imprisonment

32 & 51(7)	Non disclosure of a conviction	Summary	Class A fine
49 (7) (b)	Licence holder using licensed machine as a FOBT	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and/or 5 years imprisonment
49 (7) (c)	Supply, maintenance or repair of FOBT by a person registered under Head 16	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and/or 5 years imprisonment
49 (7) (d)	Offering use or access to a FOBT (whether a licence holder or a person registered under Head 16 or not)	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and/or 5 years imprisonment
53(5)	Providing gambling service outside permitted hours	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine of €50,000 and / or 2 years imprisonment.
53(6)	Providing gambling service on prohibited days	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine of €50,000 and / or 2 years imprisonment.
55(5)	Obstruction of authorised officers	(a) Summary (b) Indictment	(a) Class A fine and/or 12 months imprisonment (b) Fine of €50,000 and/or 2 years imprisonment
55(6)(i) & (ii)	Failure to provide records on request by OGCI or other relevant authorities.	Summary	(a) First conviction a Class A fine and/or 6 months imprisonment (b) Subsequent convictions a Class A fine and/or 12 months imprisonment
62(i)	Providing gambling service without an appropriate licence under the Act	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and/or 5 years imprisonment
62(ii)	Providing gambling service without a licence appropriate to the service	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and/or 5 years imprisonment
62(iii)	Providing gambling	(a) Summary	(a) Class A fine and/or



	services that exceed the licence granted under the Act	(b) Indictment	6 months imprisonment (b) Fine and/or 5 years imprisonment
62(iv)	Tampering with gaming machines (seals etc.)	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and/or 5 years imprisonment
62(v)	Aiding and abetting in the offences at 62 (i) to (iv)	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and/or 5 years imprisonment
64	Conspiracy to defraud etc	(a) Summary (b) Indictment	(a) Class A fine and/or 12 months imprisonment (b) Fine and/or 5 years imprisonment
65	Cheating	(a) Summary (b) Indictment	(a) Class A fine and/or 12 months imprisonment (b) Fine and/or 5 years imprisonment
68(2)	Allowing gambling on credit	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine of €50,000 and / or 2 years imprisonment.
70(3)	Employing persons under 18 in licensed premises	Summary	Class A fine and/or 6 months imprisonment
70(5)(i)	Allowing persons under 18 to gamble	(a) Summary (b) Indictment	(a) Class A fine and/or 6 months imprisonment (b) Fine and / or 3 years imprisonment
70(5)(ii)	Admitting a person under 18 into, or allowing such a person to be in a licensed premises	Summary	Class A fine and/or 6 months imprisonment
71(9)	Revealing details of persons on self-exclusion registers to persons other than specified under the Act	Summary	(a) First conviction a Class A fine and/or 6 months imprisonment. (b) Subsequent convictions a Class A fine and/or 12 months imprisonment
72(7)	Advertising offences (non-compliance with rules)	Summary	(a) First conviction a Class A fine and / or 6 months imprisonment. (b) Subsequent

			convictions a Class A fine and/or 12 months imprisonment
72(8)	Advertising offences (on behalf of an unlicensed operator)	Summary	(a) First conviction a Class A fine and / or 6 months imprisonment. (b) Subsequent convictions a Class A fine and/or 12 months imprisonment
73(4)	Promotion offences	Summary	(a) First conviction a Class A fine and / or 6 months imprisonment. (b) Subsequent convictions a Class A fine and/or 12 months imprisonment
74(9)	Sponsorship offences	Summary	(a) First conviction a Class A fine and / or 6 months imprisonment. (b) Subsequent convictions a Class A fine and/or 12 months imprisonment