



The Gaming & Leisure Association of Ireland

Gaming and Leisure Association of Ireland Position paper on the regulation of casinos in Ireland

The Gaming and Leisure Association of Ireland welcomes the decision taken by the Irish Government in August 2006 to regulate the casino sector in Ireland. The Association sets down below what it believes should be considered by those involved in drafting the relevant legislation and looks forward to working with the Government to achieving a regulated casino sector which allows for the protection of consumers, is in line with EU norms and affords the casino sector the legal certainty it requires to do business.

This paper is divided into two main sections, the first relating to the scope of regulation and the second which drills down into the detail of an eventual licence to operate a casino in Ireland. This paper should serve as an indicator as to how those already involved in the provision of casino-like services in Ireland believe regulation would best work and what should and should not be included in the framework for regulation. Before dealing with both sections, we note below the basic tenets of this exercise:

Regulating the casino sector: starting point

1. The regulation of casino sector should be undertaken in a timely fashion
2. Interim measures may be necessary for private members gaming clubs currently in existence in Ireland if the regulation process extends beyond 12 months.
- 3 This exercise should be contained to deal specifically with the granting of licences to casinos to operate casino games on their premises and should not extend to all gambling services
Note: should we be calling for regulation of online casinos at this stage?
4. Stakeholders should be involved at all stages of the process

Section I Scope of regulation

In the first instance, the term “casino” should be clearly identified and entered into the statute books. Based on EU trends¹, this definition could be “*a place where games of chance or skill are organised (whether automatic or not)*”.

The review of the 1956 Gaming and Lotteries Act, in order to modify the provisions set down therein on casinos, could give rise to an all-encompassing review of gambling laws in Ireland. Although there are elements in the 1956 Act which do not reflect current realities (such as the lack of reference to on-line gambling), a wide review could lead to a much lengthier process than is actually required, to the detriment of the very reasons given as to why casinos need to be regulated in Ireland. Casino gambling is the only form of gambling for which one cannot currently procure a licence and therefore should be dealt with in the first instance. Further to that, should a need to extend the revision of the 1956 Act to other forms of gambling be

¹ This definition of casinos is broadly applied in ten EU Member States namely, Austria, Denmark, Estonia, Germany, Italy, Latvia, Malta, the Netherlands, Spain and Sweden.

confirmed, then that revision should come second only to the establishment of a proper licensing regime for casinos.

Equally, there have been suggestions that a Gambling Commission, such as that in existence in the UK, be set up as part of this exercise. Again, the establishment of a Gambling Commission with responsibility for all forms of gambling undertaken in Ireland has thus far not been proven to be a necessity and would serve in the first instance only to delay the regulation of the casino sector. Therefore, it is the belief of the GLAI that the regulation of casinos should occur within the strict lines of casino-type activities and that such regulation and granting of licences does not require the establishment of an all-encompassing Gambling Commission. The regulation of the casino sector can be done through various Government departments and the granting of licences through a Regulator set up to issue casino licences and to oversee compliance with licence conditions in the sector. The scope of this exercise should therefore simply be to set down the rules under which casinos may be granted operating licences for the foreseeable future.

In terms of the scope of the actual activities for which an undertaking would be granted a licence, examples should be drawn from other jurisdictions where casinos are already regulated. In general, these activities range from card playing, roulette and blackjack to slot-machines with provisions in place which allow for innovation in the sector i.e. the development of new games within the casino. In addition, the provision of casino services on-line should be considered. It is without doubt that the online casino market has grown considerably over the past five years and the regulation of casinos in Ireland may wish to include a provision for the licensing of online casino services, thereby keeping operators operating within the Irish jurisdiction as opposed to outside the Irish jurisdiction but within the Irish consumers' reach. Such regulation could also extend to the regulation of on-line betting operations, although this falls outside the scope of the strict regulation of casino games per se.

While the framework for the regulation of the casino sector is being debated and ultimately enters into force, an interim regime may have to be put in place for the private members gaming clubs currently in existence in Ireland if the regulation process extends beyond 12 months. As legislation currently stands, there is little or no legal certainty for these operations and an interim regime under which they could be granted temporary licences would address this legal uncertainty. An interim licence could be granted on the basis of a probity test which would encompass such elements as a criminal background check, a residency check, a bankruptcy court check, an ID check, etc. of the owners and senior management currently involved in these private members gaming clubs. This could be done by an appropriate auditing authority. In summary therefore

The scope of this exercise should:

1. Be limited to the regulation of casinos only and not a wider review of the Irish gambling sector
2. Not include the establishment of a Gambling Commission which would be superfluous to requirement and delay the process considerably
3. Provide for the establishment of a casino regulator
4. Consider interim measures and the granting of temporary licences to private members gaming clubs currently in existence in Ireland
5. Consider legislating for the introduction of online casino licences

Section II Regulating casinos: the licensing regime

The GLAI has researched extensively how casinos are licensed throughout the EU and more specifically in those Member States where casinos are run by private operators. It is the assumption of the GLAI that private operators will be granted licences on the basis of applications made and conditions imposed, as is the case with all other forms of gambling services in Ireland, save the National Lottery. It is also the assumption of the GLAI that general parity of treatment between all forms of gambling services in Ireland will be maintained by the authorities.

On this basis therefore, the GLAI has set down the questions it believes should be dealt with as a means to building the framework through which licences can be requested, granted and indeed revoked where appropriate. We set down below each of the questions we believe to be pertinent to the regulation of casinos and suggestions as to how such questions may be answered, based on analysis of existing regimes in the EU and on the way in which other forms of activities (notably gambling) are licensed in Ireland.

Question 1 What is a casino for the purposes of regulation?

A casino is “a place where games of chance or skill are organised (whether automatic or not)”. A casino is a stand-alone operation and premises, not attached or associated with any other form of activity including, but not exclusively, hotels, bookmakers and large leisure centres.

Question 2 Who should be permitted to apply for a casino licence in Ireland?

A Limited EU Company, regulated in accordance with the 1963/90 Irish Companies Act should be permitted to apply for a licence to operate a casino and if non Irish be bonded to ensure compliance with regulations and tax regime in Ireland

Question 3 Who should have the power to grant a casino licence in Ireland?

A casino regulator should have the sole power to grant or indeed revoke a casino licence in Ireland. It may fall to the Revenue Commissioners to maintain an overall oversight responsibility with respect to the grant of licences.

Question 4 On what basis should a casino licence be granted by the Regulator?

A licence to operate a casino should be granted on the basis of a certificate of personal fitness done by an Garda Síochána, which then submits this certificate to the regulator. The time taken for this background check should be set, and be no longer than 3 months from the date of application to the regulator for a licence. Guidelines as to what should be examined during this background check should be set down as part of the legislative process.

Question 5 What would be included in this certificate of personal fitness?

The background check resulting in the granting of a certificate of personal fitness could include a probity test both in terms of the limited company itself (insurance, tax compliance, etc.) and in terms of the owners, directors and senior management of the applicant company. These personal probity tests would include background checks, criminality checks, residency checks and ID checks.

The owners of the applicant casino should be obliged to sign an affidavit to confirm compliance with conditions for granting a licence.

Consideration should be given to bonding requirements to be applied to casinos.

- Question 6 What would a licence to operate a casino actually permit?**
The licence to operate a casino would permit the owners of the casinos to offer casino-type games such as card games, roulette and black jack to be played on their premises. Gaming machines should also be permitted in a section of the casino. Casino operators should be permitted to determine their own operating hours.
- The licence to operate an online casino would permit the owners of an online casino to offer casino-type games such as card games, roulette and black jack to be played on their website. The licence could also grant the right to operate an online casino service to offer linked jackpot within and between premises.
- Question 7 Should the number of casino licences granted be limited?**
The number of casino licences granted should not be limited per se. However, due consideration should be given to market demand, environmental circumstances (such as whether an area is primarily residential or not) etc. Special consideration should be made for high density tourist areas where demand may be high for casinos.
- Question 8 Should the size of casinos be limited?**
The size of a casino could be set either on the basis of demographics, or on square footage. The recommended size of the premises would be 15,000 square feet with no more than 50% of that space given over to gaming, excluding poker, with a set machine to table ratio.
- Question 9 How long should a licence be granted for?**
Licences could be granted on a one year probationary basis, and should then be granted for the life of the corporate entity so as to ensure business viability.
- Question 10 Should the regulator be able to revoke licences granted?**
Licences may be withdrawn, based on grounds deemed appropriate by the regulator, but agreed with industry as part of the initial regulation process. An arbitration clause should be introduced into any regulation providing for the establishment of a casino regulator.
- Question 11 How should the operation of casinos after the grant of a licence be monitored?**
The regulator should monitor the operation of casinos and compliance with licence requirements.
- All casinos must make public their audited accounts and ensure compliance with tax obligations.

Question 12 **What consumer protection requirements should be put in place as part of the grant of a licence to operate a casino?**

Standard public safety and public access requirements should be put in place as part of the grant of a licence. Voluntary exclusion notes should be accepted as should voluntary limitations on visits. No credit should be granted by the House to a player. Deposit accounts should be made available.

On problem gambling, House Rules should always be displayed. Players should have access to a self-banning or limit setting database, to be compiled, as part of the licence requirements, by each individual casino and coordinated by the Gaming and Leisure Association of Ireland. No children under the age of 18 should be allowed on the premises at any time.

On social responsibility requirements, a code of practice should be adhered to by all casinos which sets down provisions on education, problem gambling, employee training and certification, alcohol consumption, rules of games and odds, etc.

Question 13 **What other rules should be applied to the casino sector?**

Rules relating to problem gambling, advertising and the sale of liquor should be those applied to the gambling sector as a whole.

Casinos should be obliged to purchase equipment from reputable suppliers. Random testing of card decks and regulator spot checks on games should be provided for. Chips and card decks should be supplied by certified companies.

Question 14 **What money laundering provisions should be applied to the casino sector?**

Once regulated, all casinos (both online and offline), should fall under the scope of the Third Money Laundering Directive² and this should be reflected in the Irish implementation of this directive, as is the case, for example, in the implementation of the directive in Denmark. This would be in line with Article 10 of the directive which reads:

- 1. Member States shall require that all casino customers be identified and their identity verified if they purchase or exchange gambling chips with a value of EUR 2000 or more.*
- 2. Casinos subject to State supervision shall be deemed in any event to have satisfied the customer due diligence requirements if they register, identify and verify the identity of their customers immediately on or before entry, regardless of the amount of gambling chips purchased.*

Moreover, in order to achieve parity of treatment, all gambling activities should be brought under the scope of the implementation of this directive at Irish level. Such a move would address the concerns raised by the Financial Action Task Force to which reference is made in the call for comment on casino regulation. The Task Force made the following observations and recommendations³:

² Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005. Specific reference to gambling is made in Article 10, paragraphs 1 & 2. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:309:0015:01:EN:HTML>

³ The relevant passages in the report <http://www.fatf-gafi.org/dataoecd/63/29/36336845.pdf> as they relate to points 1, 2 and 3 above are as follows:

1. Introduction, p. 11: "It was noted that a number of private gaming clubs operate casino like facilities that create an AML/CFT risk, but which fall outside the scope of the CJA (94). This lack

1. The Task Force recognises the existence of private members gaming clubs in Ireland and expresses concerns that these clubs are not subject to money laundering rules in Ireland.
2. The Task Force questions whether the current regulatory regime in Ireland, as it relates to casino gambling, mitigates the risk of money laundering.
3. The Task Force recommends that Ireland be prepared to address potential money laundering risks in the casino sector and indicates how this could be done. At no stage does the Task Force recommend the closing down of private members clubs or casinos in Ireland as a means to mitigating any perceived money laundering risks associated with this activity.

Question 15 How should casino revenues be taxed?

Taxation of casinos should be in line with taxation of the gambling sector in Ireland as a whole i.e. a 1% betting tax should be applied to Gross Gaming Revenues (drop less pay out).

In accordance with the 6th VAT Directive⁴ gambling services are exempt from VAT and therefore VAT should not be applied to casino services.

of AML/CFT requirements for [...] gaming sectors was a matter of concern for the evaluation team.

2. Section 4.3.2 Recommendations & Comments p. 127: “It is recommended that the Irish Authorities consider whether the current regulatory arrangement mitigates against the risk of ML for private clubs operating as casinos and offering casino services”.
3. Preventive Measures, p. 166: “Ireland should be aware of the ML issues relating to the illicit operation of casinos and should be prepared to address these problems. DNFBPs (i.e. casinos among others) should be required to establish and maintain internal procedures, policies and controls to prevent ML and TF, to communicate these to their employees [...]. DNFBPs should be required to maintain an independent audit function and establish ongoing employee training”.

⁴ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment.

In summary therefore:

The licensing regime for casinos should be as follows:

1. The regulator should have the power to both grant and revoke licences
2. An audit should be undertaken after the time of application to the regulator for a licence and no longer than three months from that date a decision to grant a licence or not should be made.
3. Casinos must be Limited EU Companies where both the company and the owners of the company are subject to probity tests as part of the licence application.
4. A licence should be granted in the first instance for 1 year and then in perpetuity.
5. A licence to operate a casino should include the authorisation to offer casino type games either on the premises of the casino or through the casino's portal / website. A casino premises must be standalone and independent of all other activities.
6. Casinos should be no larger than 15,000 square feet and should be granted on the basis of demand, particularly tourist demand, and on other considerations such as the nature of the area in which the casino would operate.
7. Consumer protection rules, not least those applied with respect to problem gambling, as applied to other gambling sectors, should be applied in full to the casino sector
8. Taxation, liquor licensing and advertising requirements should reflect that already applied to other gambling activities in Ireland
9. The provisions of the Third Money Laundering Directive should apply to casinos.

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The regulation of the casino sector should be undertaken as a matter of urgency. The Gaming and Leisure Association of Ireland is committed to working towards an efficiently regulated casino sector which allows simultaneously for consumer protection and the growth of a sector in demand.

Annex I

Member organisations of the Gaming and Leisure Association of Ireland

4 Aces Card Club
18 Upper Dominick Street
Galway

Atlantis Casino Club
1 Tulis Street
Tulis, Co. Carlow

Big Slick Card Club
Unit 2, St. Mary's Square
Athlone, Co. Westmeath

Crane Club Casino
11 Pearse Street
Mullingar, Co. Westmeath

Dundalk Private Members Club
Bachelors Walk
Dundalk, Co. Louth

Fitzwilliam Card Club
Clifton Hall, Lower Fitzwilliam Street
Dublin 2

Macau Sporting Club
16 Patrick Quay
Cork

Mayfair Private Members Card Club
35B Main Street
Arklow, Co. Wicklow

Phoenix Club
Fionntir, Market Square
Tullamore, Co. Offaly

Riverside Club
10 Wellington Quay
Drogheda, Co. Dublin

Silks Private Members Club
24 Earlsfort Terrace
Dublin 2

Westbury Club
The Green
Mulahide, Co. Dublin