



2022 CHAPTER 14

*Miscellaneous amendments of 1985 Order*

**Qualifications by age, residence or corporate status for licences, certificates and permits**

- 11.—(1) In the following provisions of the 1985 Order—
- (a) Article 7(5)(a) (bookmaker’s licences),
  - (b) Article 61(5)(a) (bingo club licences),
  - (c) Article 84(4)(a) (gaming machine certificates and gaming machine permits), and
  - (d) Article 141(4)(a) (lottery certificates),
- for “21” (the minimum age restriction) substitute “18”.
- (2) The following provisions of the 1985 Order (which impose restrictions or prohibitions by reference to residence) are repealed—
- (a) Article 7(5)(b) and (c) and (7) (bookmaker’s licences),
  - (b) Article 61(5)(b) and (c) (bingo club licences),
  - (c) Article 84(4)(b) and (c) (gaming machine certificates and gaming machine permits), and
  - (d) Article 141(4)(b) and (c) (lottery certificates).
- (3) The following provisions of the 1985 Order (which restrict or prevent certain corporate bodies from holding licences, certificates or permits) are repealed—
- (a) Article 7(5)(d) and (6) (bookmaker’s licences),
  - (b) Article 61(5)(d) and (6) (bingo club licences),

(c) Article 84(4)(d) and (5) (gaming machine certificates and gaming machine permits), and

(d) Article 141(4)(d) and (5) (lottery certificates).

(4) In Article 109(2) of the 1985 Order (which limits the grant of amusement permits to certain corporate bodies) for “a company registered under the Companies Act 2006 in Northern Ireland” substitute “a body corporate”.

(5) In Article 155(2) of the 1985 Order (which limits the grant of pleasure permits to certain corporate bodies) for “a company registered under the Companies Act 2006 in Northern Ireland” substitute “a body corporate”.

### **Prize competitions not requiring persons to pay to participate**

**12.**—(1) Article 168 of the 1985 Order (prize competitions) is amended as follows.

(2) In paragraph (1) for “paragraph (2)” substitute “paragraphs (2) and (2A)”.

(3) After paragraph (2) insert—

“(2A) An arrangement is not a competition for the purposes of this Article unless persons are required to pay to participate in the arrangement; and Schedule 15A makes provision about when an arrangement is or is not to be treated for those purposes as requiring persons to pay to participate.”.

### **Cheating**

**13.** For Article 169 of the 1985 Order (offence of cheating) substitute—

#### **“Cheating**

**169.**—(1) A person who—

(a) cheats at gambling, or

(b) does anything for the purpose of enabling or assisting another person to cheat at gambling,

is guilty of an offence.

(2) For the purposes of paragraph (1) it is immaterial whether a person who cheats—

(a) improves his chances of winning anything, or

(b) wins anything.

(3) Without prejudice to the generality of paragraph (1), cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with—

(a) the process by which gambling is conducted, or

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(b) a game, sport, pastime or other event or process to which gambling relates.

(4) In this Article “gambling” means gaming, betting or participating in a lottery.”.

#### **Enforceability of gambling contracts**

**14.—**(1) The following provisions of the 1985 Order are repealed—

(a) Article 170 (which voids contracts by way of gaming or wagering);

(b) Article 171 (securities in connection with gaming or wagering deemed given for an illegal consideration).

(2) The fact that a contract relates to gambling does not prevent its enforcement.

(3) Subsection (2) is without prejudice to any rule of law preventing the enforcement of a contract on the grounds of unlawfulness (other than a rule relating specifically to gambling).

(4) The repeals in subsection (1) do not permit enforcement of a right which is created or which arises from an agreement made before this section comes into operation.

(5) In this section “gambling” means gaming, betting or participating in a lottery (within the meaning of the 1985 Order).”.

#### **Industry levy**

**15.—**(1) After Article 172 of the 1985 Order insert—

##### *“Industry levy*

**172A.—**(1) The Department may make regulations for, or in connection with, requiring every person who intends to make an application to which this Article applies to pay a levy to the Department.

(2) This Article applies to an application—

(a) for the grant or renewal of a bookmaker’s licence;

(b) for the grant or renewal of a bookmaking office licence or to have the provisional grant of a bookmaking office licence declared final;

(c) for the grant or renewal of a bingo club licence or to have the provisional grant of a bingo club licence declared final;

(d) for the grant or renewal of a gaming machine certificate or permit;

(e) for the grant or renewal of an amusement permit or to have the provisional grant of an amusement permit declared final.

- (3) Regulations under paragraph (1) must make provision for the amount of the levy, its payment and general administration and may, in particular—
- (a) make provision for the determination of the amount of the levy according to a specified formula or in some other way;
  - (b) make provision requiring the Department to issue a receipt in respect of payment of the levy in relation to an application and for ensuring that the application does not proceed unless it is accompanied by the relevant receipt;
  - (c) make provision for the repayment of levy to an applicant whose application is refused;
  - (d) make such modifications of this Order as are necessary or expedient to give full effect to the levy.
- (4) The proceeds of a levy are to be expended by the Department in providing financial assistance for projects related to—
- (a) addiction to gambling; or
  - (b) other forms of harm or exploitation associated with gambling.
- (5) Financial assistance under paragraph (4)—
- (a) may be provided by grants, loans or any other form of financial assistance;
  - (b) may be made or given on terms or conditions (which may include terms and conditions as to repayment with or without interest);
  - (c) requires the consent of the Department of Finance.
- (6) Before making any regulations under this Article the Department must consult such organisations as appear to the Department to represent the interests of—
- (a) persons who have suffered from, or been affected by, addiction to gambling or other forms of harm or exploitation associated with gambling;
  - (b) persons who have experience or knowledge of issues relating to such addiction, harm or exploitation; and
  - (c) the gambling industry in Northern Ireland.
- (7) In this Article “gambling” means betting, gaming or participating in a lottery.”.
- (2) In Article 186 of the 1985 Order (orders and regulations)—
- (a) after paragraph (3) insert—
    - “(3A) No regulations may be made under Article 172A unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”;

(b) in paragraph (4) for “paragraph (3)” substitute “paragraphs (3) and (3A)”.

### **Code of practice**

**16.—**(1) After Article 180 of the 1985 Order insert—

#### *“Code of practice*

### **Code of practice**

**180A.—**(1) The Department must issue one or more codes of practice about the manner in which facilities for gambling are provided (whether by the holder of a licence, permit or certificate under this Order or by another person).

(2) In particular a code must describe arrangements that should be made by a person providing facilities for gambling to meet an expected duty of care to those using the facilities to include, but not be limited to—

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

(3) A code may include provision about how facilities for gambling are advertised or described.

(4) A code may be revised or revoked by the Department.

(5) A code, and any revision, must state when it comes into force.

(6) The Department must publish a code and any revision in a manner which the Department thinks likely to bring it to the attention of those whose activities it concerns.

(7) The Department may make different provision under this Article for different cases or circumstances (whether or not by way of separate codes of practice).

(8) A failure to comply with a provision of a code does not of itself make a person liable to criminal or civil proceedings.

(9) But a code—

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

(10) Before issuing or revising a code under this Article the Department must consult—

- (a) such organisations as appear to the Department to represent the interests of the gambling industry in Northern Ireland,
- (b) persons who appear to the Department to have knowledge about social problems relating to gambling,
- (c) in the case of a code including provision by virtue of paragraph (3), persons who appear to the Department to have a relevant responsibility for regulating the advertising industry,
- (d) persons who appear to the Department to represent district councils,
- (e) the Chief Constable, and
- (f) in such manner as the Department thinks appropriate, members of the public.

(11) Serious, significant, continuing or multiple breaches of a code is a ground of revocation or cancellation of a licence, registration or permit under Articles 27, 42, 92, 103 or 121.

(12) In this Article “gambling” means betting, gaming or participating in a lottery.”.

(2) The 1985 Order is amended as follows—

- (a) in Article 27(1) (grounds for application for revocation of bookmakers’ licences) after sub-paragraph (d) insert—
  - “(da) that the business carried on under the licence has been carried on in a manner which involved serious, repeated or continuous failure to comply with a code of practice in force under Article 180A; or”;
- (b) in Article 28(1) (grounds for application for revocation of bookmaking office licences) after sub-paragraph (d) insert—
  - “(da) that the business carried on in the licensed office has been carried on in a manner which involved serious, repeated or continuous failure to comply with a code of practice in force under Article 180A; or”;
- (c) in Article 42(1) (grounds for revocation of track betting licences) after sub-paragraph (a) insert—
  - “(aa) that the track has been conducted in a manner which involved serious, repeated or continuous failure to comply with a code of practice in force under Article 180A; or”;
- (d) in Article 72(1) (grounds for application for revocation of bingo club licences) after sub-paragraph (g) insert—

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- “(ga) that gaming on the bingo club premises has been conducted in a manner which involved serious, repeated or continuous failure to comply with a code of practice in force under Article 180A; or”;
- (e) in Article 92(1) (grounds for application for revocation of gaming machine certificates) after sub-paragraph (a) insert—
  - “(aa) that the business carried on under the licence has been carried on in a manner which involved serious, repeated or continuous failure to comply with a code of practice in force under Article 180A; or”;
- (f) in Article 103(1) (grounds for application for cancellation of registration of club) after sub-paragraph (c) insert—
  - “(ca) that gaming carried on in the premises of the club has been carried on in a manner which involved serious, repeated or continuous failure to comply with a code of practice in force under Article 180A; or”;
- (g) in Article 149(1) (grounds for application for revocation of lottery certificates) after sub-paragraph (d) insert—
  - “(da) that the business carried on under the certificate has been carried on in a manner which involved serious, repeated or continuous failure to comply with a code of practice in force under Article 180A; or”.