



Casino Ireland

From Westmeath to Wexford there has been a proliferation of private casinos opening across the country. However the industry remains unregulated, creating doubts about its legality and leaving consumers unprotected. We look at the issues involved, and consider the options going forward.

It is estimated that the total spent on land-based gambling in Ireland is over €6 billion annually. That figure includes money spent on the lottery, gaming machines, betting and bingo. A small, but growing proportion of this business can be attributed to casino gaming, which sees annual bets at some €153 million. However, unlike much of Europe and the United States, where this section of the gambling industry has long been regulated, casinos are not specifically authorised under Irish law.

Despite not being specifically legally authorised, casinos do exist in Ireland. Operating as private clubs providing casino-style games to members, there has been an upsurge in the number of casinos operating here in recent years. Current estimates put the number at somewhere between 25 and 30, with the majority of these in the Dublin area. However, the lack of specific regulation or licensing, along with an apparent increase of casinos opening in smaller towns (there are two in Wexford alone)

means that the true number of Irish casinos could be much higher.

Current regulation

The Gaming and Lotteries Act 1956 is the legislation which governs gaming and lottery (other than The National Lottery) activity in Ireland. The 53 year old Act specifically prohibits unlawful gaming, which it defines as one where “by reason of the nature of the game, the chances of all the players, including the banker, are not equal, or in which any portion of the

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stakes is retained by the promoter or is retained by the banker otherwise than as winnings on the result of the play". Under this definition games such as roulette and blackjack, where the casino retains un-won stakes, would therefore be unlawful.

Despite the fact that casino-style games are deemed unlawful, for many years members' clubs have been providing these activities on the basis that the provisions of the Act do not apply to private arrangements. While such activities are clearly not in keeping with the spirit of the law, up until recently the legality of such clubs has rarely been challenged by the authorities.

The one challenge that has been made to date was against the Atlantic Club Casino in Clonmel, Co. Tipperary. This was widely seen as a test of the State's gambling laws. The case ended up being dismissed on the basis that there was insufficient evidence to prove unlawful gaming as defined by the 1956 Act.

This highlights both the dilemma of casino clubs not having legal certainty, and also the law's shortcomings in clarifying authorities' abilities to properly investigate a complaint about a casino operator.

How do casinos operate?

As might be expected in an unregulated industry, casinos don't operate under any standard format. Some have a minimum gaming age of 18, others 21.

In order for an establishment to be considered a members' club, all consumers are required to become members before partaking in any gaming activities although there is no standard membership procedure. There is no regulation of opening hours with some clubs open 24 hours a day. Most clubs serve complimentary refreshments although many do not allow alcoholic drinks. The games that can be played depend on the club but range from slot machines to table games like roulette, blackjack and poker.

While casino clubs are subject to normal business taxes they are not subject to any gambling duty or the 2% betting levy. Also, there are no specific provisions, beyond those contained in general consumer law, to protect consumers or vulnerable persons from being harmed or exploited by operators.

Due to a failure by successive governments to formulate a policy on regulating casinos, the industry remains unregulated and continues to exist within a legal grey area. That said, the Department of Justice has signalled its intent to introduce regulation, although no timetable has yet been announced.

Report of the Casino Committee

Since the passing of the 1956 Act, the question of the legalisation and/or regulation of casinos has been formally considered in three official government Reports. The latest of these, 'Regulating

Gaming in Ireland – Report of the Casino Committee', was given a broad mandate to report on the industry. Within the committee's mandate included the possibilities for strict regulation of casino-style operations in the State, the establishment of a Casino Regulation Commission and the inclusion or otherwise of internet gambling. The 222-page Report was published in July 2008, almost two years after the initial Government request.

The recommendations of the Report were widely seen as pragmatic given the current existence of private casinos in Ireland. Prohibition of casino-style gaming did not figure, and the committee recommended "the adoption of a restrictive licensing regime" along with the establishment of a Gaming Regulatory Authority.

The Report said that a key principle underlying the provision of regulation of all gaming in Ireland should be social responsibility (i.e. protection of children and the vulnerable) and that gaming is not a right but a privilege. The Committee was strongly opposed to the spread into bookmaker's offices of gaming machines, which it said should only be permitted to operate in a licensed casino or gaming premises. The revenue and employment opportunities associated with casinos, particularly online gaming were also addressed.

From the perspective of consumers, the Committee had no rigid view on the subject of age restrictions provided that minors (under 18) were not permitted entry to a licensed casino venue. On the issue of problem gambling, it was recommended that there be a statutory underpinning of the process of 'self-exclusion' whereby individuals who acknowledge they have a gambling problem can self-ban themselves from gaming venues. It was also recommended that any new gaming regulatory authority be empowered to commission research with a view to developing relevant insight into the issue of problem gambling. The establishment of an independent problem gambling support group should also be considered.

Crucially, it was decided to establish a Cross Party Committee to further examine all aspects of gaming in Ireland before passing legislation. However, agreement was not reached between the political parties. Meanwhile, casinos continue to exist in a legal limbo with

choice comment

The Department of Justice has announced that it is to carry out a further review by the Casino Gaming Control Section to put in place a "modern, responsive code" that recognises that many people gamble recreationally without it impacting on their lives. In its statement the Department said, "any gambling code must acknowledge that there are inherent dangers involved in gambling that need to be addressed, not least in terms of problem gambling, protection of minors and the need to ensure gambling venues are crime-free." The casino industry itself would also welcome such a code. When discussing the subject of regulation with *Consumer Choice*, The GLAI specifically mentioned that there should be "proper enforcement and sanctions in place for those who do not comply."

However, 'further review' is no promise of real action, and the CAI argues that legislation should be drafted, proposed and implemented immediately. If the State is prepared to accept tax revenue from casinos, then it must provide protection for citizens who use these services. A strict licensing regime which caps the number of available casino licences should be introduced. A limit in the size of casinos is another necessary precaution. ATM machines (or means of credit) should not be accessible in casino venues and both gaming machines and table games should have appropriate 'bet-limits'. Age restrictions, along with a ban on the sale of alcoholic refreshments are other important elements of a compulsory code of practice which should be introduced for casinos.

Overall, any regulation of casino venues must be accompanied by an appropriate monitoring system with the necessary powers of enforcement. We have seen in the past with other regulatory bodies that unless they have teeth they can often be ineffectual in carrying out their duties. This is particularly important if the process of 'self-exclusion' whereby individuals can self-ban themselves from gaming venues is to be undertaken successfully by casinos. Regulation really must ensure consumer welfare and limit where possible the prevalence of problem gambling. At all times any new legal framework must be weighted in favour of the consumer.

In its report, the Casino Committee looked at international practices of casino regulation for the purposes of guiding its recommendations. It found that in the United States, commercial casinos were allowed in eleven States, all of which have gaming commissions to regulate gaming activities. In Great Britain, regulation operates under a 'numerus clausus' system meaning there are a closed number of casino licences available. Last year, the British Government axed plans

to build a Las Vegas-style 'supercasino' in Manchester.

In New Zealand, several regulatory agencies are responsible for the regulation of casinos including the Ministry for Health which is responsible for problem gambling and maintaining a comprehensive public health approach to gambling. In the Canadian province of Alberta, the Report identified a unique regulatory policy where all the permanent casinos are conducted and

managed by licensed charity groups of exhibition associations.

In terms of how international practice might inform the debate in Ireland perhaps the overriding finding is that there is no 'one size fits all' prescription for the regulation of casinos. It seems that each country has its own particular factors that need to be considered along with the fact that there remains little agreement on the net cost or benefit to society of casinos in general.

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GLAI Code of Practice

Notwithstanding the lack of formal regulation and uncertain legal status, participants in the Irish casino sector have made an attempt at self-regulation by producing a voluntary Code of Practice. The Gaming & Leisure Association of Ireland (GLAI) was established in 2005, and focuses on representing the casino sector and advancing the regulatory process. The GLAI, which currently has eight members, formed a Code of Practice to which its members must adhere. The Code governs how membership is established for people wishing to join casinos as well as providing general guidelines on how casinos are run and managed.

Included in the Code is a section on protecting vulnerable persons from being harmed or exploited from gaming. The Code sets out that GLAI-affiliated casinos must make available reasonable assistance and guidance to club members or employees who are, or who may be affected by problems related to addictive gaming behaviour. They must adopt an exclusion policy for persons with, or showing signs of, addictive gaming behaviour. They must also maintain a register of persons who have self-excluded on the grounds of their addictive behaviour. Maintaining such a register is in keeping with the Casino Committee's report that such a process be underpinned in law if any regulation of the industry takes place. The Code further stipulates that casino club members shall not be provided with

credit and that alcohol should not be sold on the premises.

Costs and benefits of casinos

Casino gambling undoubtedly brings economic benefits. However, in making an overall assessment, these benefits must be balanced against any possible associated social costs. Obviously, the funding required to tackle such costs should also be considered.

In October 2008, DKM Economic Consultants published a report that assessed the economic impact of a regulated Irish casino gaming sector. The report, which was commissioned by the GLAI, concluded that the land-based and online casino sectors have the potential to create in the region of 13,000 new jobs and deliver annual returns to the Exchequer of €280 million by 2020. However, this is only achievable if the appropriate regulatory and fiscal structures are put in place. In particular, the report highlights the potential for Ireland to benefit from the growth in the global online casino sector. It values this sector at €44 billion today and estimates it could be worth €150 billion by 2020. The Casino Committee, in its report, recommended that a regulatory system be established for online casino gaming in Ireland.

By their nature, the social costs associated with casinos and gambling in general are hard to quantify. As casinos are not officially sanctioned in Ireland there is little other than anecdotal evidence of possible negative social impacts. However, it is safe to assume that while casinos do not create problem gamblers, they can certainly become a

dangerous outlet for individuals with the 'gambling gene'. Former Minister for Justice, Michael McDowell, believed all casinos in Ireland should be shut down, saying that they were "more damaging to society than positive." This is in contrast to the view held by current Minister for Justice, Dermott Ahern who said that he wants "to ensure that [betting and] gaming activities are carried out within a responsible framework that recognises the reality of these activities."

Protecting consumers

Consumer Choice contacted Gamblers Anonymous and also the GLAI to get their opinions on how best to protect vulnerable consumers. David Dickson, Managing Director of the Fitzwilliam Card Club, and Director of the GLAI, believes that regulation is the only way forward, not only to remove the legal uncertainty surrounding casino clubs, but also to protect the consumer. "Prohibition would simply drive unscrupulous operators underground and they would not provide their services in a socially responsible manner, and consumer protection would be ignored," Mr. Dickson said. On the subject of problem gamblers he said, "If one is genuine about reducing the incidence of problem gambling, then regulation is the only way to ensure that operators, those at the coalface, provide their services in a responsible manner."

When contacted, Gamblers Anonymous declined to comment on how Casinos should be regulated. "We are solely concerned about the welfare of the person who wants to stop gambling," a spokesperson told *Consumer Choice*.

Useful contacts

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Useful websites

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