



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Betting, Gaming, Lotteries and Amusements
(Amendment) Bill: Committee Deliberations

18 January 2022

NORTHERN IRELAND ASSEMBLY

Committee for Communities

Betting, Gaming, Lotteries and Amusements (Amendment) Bill: Committee Deliberations

18 January 2022

Members present for all or part of the proceedings:

Ms Paula Bradley (Chairperson)
Mr Andy Allen
Mr Stephen Dunne
Mr Mark Durkan
Ms Ciara Ferguson
Mr Paul Frew
Ms Áine Murphy
Miss Aisling Reilly

Witnesses:

Ms Martina Campbell	Department for Communities
Mr Ciarán Mee	Department for Communities

The Chairperson (Ms P Bradley): I welcome Ciarán Mee and Martina Campbell. You are both very welcome today. It is good to see you.

Mr Ciarán Mee (Department for Communities): Thank you.

The Chairperson (Ms P Bradley): Members, we will go through each clause again as a reminder of what we discussed at last week's meeting. No queries have been raised by the Committee on clause 1, which is "Interpretation", so we will move to clause 2, which is "Opening of licensed offices on Sunday and Good Friday". Last week, we queried why Easter Sunday was not a day on which the offices were closed and what type of events would take place on Easter Sunday that would benefit licensed offices. We also requested examples of events that take place on Easter Sunday, when it would benefit licensed offices to open. The Committee also queried the future potential for a gambling regulator in Northern Ireland and a gambling strategy. We queried why there was no enabling clause in the Bill for a regulator. Last week, the officials stated that it is better to put such powers in secondary legislation and that more research was needed on that. We asked the officials to confirm those explanations and the Minister's thinking on those matters and to provide further information regarding the potential appointment of an independent adviser to take forward the work that is needed.

Martina and Ciarán, it would be useful if you would run through some of those points in your responses. *[Pause.]* Can you hear me?

Ms Martina Campbell (Department for Communities): Yes, Chair. Can you hear me OK?

The Chairperson (Ms P Bradley): I can indeed, yes.

Ms Campbell: OK, great. Do you want me to go through our response to you on that?

The Chairperson (Ms P Bradley): Yes, please.

Ms Campbell: OK. Sorry, I was panicking that I was not online there.

The policy intention is primarily to remove the prohibition on bookmakers opening on Sundays in order to bring them into line with their counterparts, such as on-course dog tracks and licensed amusement arcades, that are permitted to operate on Sundays and to ensure fairness for land-based operators against online operators that can operate 24 hours a day. We are not aware of any policy reason as to why bookmakers should not be permitted to trade on Sundays, given that other retail and leisure outlets are permitted to open.

There are examples of what happens on Easter Sunday. Some sporting events that either have taken place or are about to take place include the World Snooker Championships, European club football matches, some GAA matches, small motor race meetings such as races at Brands Hatch, horse racing, rugby and American basketball. I remind members that some people bet not only on sporting events and fixtures that are local to us but on those that take place all over the world. That is our response on that, Chair.

The Chairperson (Ms P Bradley): OK, thank you, Martina. Do members have any comments or further queries on that part? Paul raised some of those issues around Easter Sunday last week. Is there anything further at this stage?

Mr Frew: Does clause 2 relate to the opening of bingo halls on Sundays as well?

Ms Campbell: That is in a further clause.

The Chairperson (Ms P Bradley): That is in clause 6.

Mr Frew: Sorry, I will leave it until then.

The Chairperson (Ms P Bradley): We will leave it at that. If there are no further comments on clause 2, we will move on to clause 3, which is titled "Sunday working in licensed office".

We queried whether the Department for the Economy would have to make any changes to its law due to proposed Sunday working. Officials stated that it was their understanding that the Bill and the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 are in line with current employment legislation. We had the same issues around that when we looked at the Licensing and Registration of Clubs (Amendment) Bill. We asked the officials to confirm that understanding in their response. For the record, will you run through that response, Martina?

Ms Campbell: Certainly. We confirm that there is no need for DFE to make or amend any legislation. Our Minister obtained the agreement of the then Economy Minister to amend schedule 8A in the 1985 Order, which confers the same rights as those that already exist for workers at race courses, dog tracks or amusement arcades.

Clause 3 amends schedule 8A of the 1985 Order, which states clearly at paragraph 1(5):

"This Schedule shall be construed as one with the Employment Rights (Northern Ireland) Order 1996 ... referred to in this Schedule as "the Employment Rights Order"."

Workers' rights are contained in a range of employment legislation but mainly in the Employment Rights (Northern Ireland) Order 1996. We are satisfied that, by virtue of the amendment to schedule 8A in clause 3, the protections are sufficient to cover workers' rights for Sundays. Thanks, Chair.

The Chairperson (Ms P Bradley): Thanks, Martina. Do members have any questions or further comments in relation to clause 3? *[Pause.]* No. OK, we will move to clause 4, which is "Pool betting".

Mr Frew: Chair, can I just go back to clause 3?

The Chairperson (Ms P Bradley): Sorry, go ahead, Paul.

Mr Frew: I place on record my concerns and the belief of the Institute of Public Health and the Public Health Agency in relation to clause 3. The Public Health Agency says that the extended opening hours may "exacerbate existing harms". Also, the Institute of Public Health will not support Sunday opening without a gambling strategy and a regulator being in place. I just wanted to put that on record, Chair.

The Chairperson (Ms P Bradley): Thanks for that, Paul. Do members wish to make any other comments? *[Pause.]* No.

Clause 4 is "Pool betting". No queries were raised by the Committee that required a response from the Department, beyond what was discussed at last Thursday's meeting. Do members have any further comments on clause 4, "Pool betting"? *[Pause.]* No, there is no further comment on that.

Clause 5 is "Persons who may participate in bingo at a bingo club". No queries were raised by the Committee that required a response from the Department beyond what was discussed last Thursday. Do members have any further comments on clause 5? *[Pause.]* No. OK.

Clause 6 is "Days when bingo and use of gaming machines permitted on bingo club premises". Last week the Committee queried the rationale behind this clause, and the officials explained that it is intended to allow bingo to take place on Sundays and Good Fridays and to amend the anomaly so that gaming machines in bingo clubs are made available on those days, as arcades can already open on those days.

Last Thursday, our discussions widened into illegal gaming machines that are found in taxi depots, takeaways and so on. Officials were asked to confirm, in their response, that the Bill does not deal with those illegal machines. There were also Committee queries around a register of purchasers of gaming machines. Officials advised that work is ongoing to locate information from the Northern Ireland Courts and Tribunals Service. Members queried whether the Bill should have a clause that would lead to the improved collection of data. The officials stated that DFC is having conversations with its statisticians to see what will be possible in the future, and that the Minister has written to HMRC to see whether access can be given to the gambling duties that are paid and so on to inform the next stage of reforms. Officials were asked to provide the information from the Courts and Tribunals Service as soon as it is available and to confirm in writing the range of data gathering that the Department hopes to be able to do in order to inform the second stage of reforms.

Martina, for the record, can you run through those key points and your response to those issues?

Ms Campbell: *[Pause.]* Sorry, Chair, there is a lot of interference on the line. Do you want me to talk just about the data collection, or about the bingo, the takeaways and the data collection?

The Chairperson (Ms P Bradley): Ciarán, can you mute yourself? I do not know whether you are on mute. It is just that there is a wee bit of background noise. OK, we have muted you to see whether that is the issue. We do not know.

Could you run through all those key points and the responses to the issues for the record, Martina?

Ms Campbell: OK. The policy intention in relation to bingo club opening hours is to remove the prohibition to bring them into line with other gambling operators who are permitted to operate on Sundays, to ensure fairness for land-based operators against the online operators, who can operate 24 hours a day. We are not aware of any policy reason why bingo halls should not be permitted to trade on Sundays, given that other retail and leisure outlets are permitted to open. Opening on Easter Sunday is in line with what happens in other jurisdictions. We were advised by the industry — by some operators who have bingo halls in Britain — that Sunday is their biggest bingo night.

As I said, the facility to play bingo online already exists, and was in operation during lockdown, when commercial bingo halls were closed. As regards gaming machines in taxi depots, obviously only the courts can give a definitive interpretation of the law, but our understanding of the law is that gaming machines are not permitted in fast-food restaurants or taxi depots in any circumstances. Article 95 of the Order has a general restriction on the use of gaming machines, which has an offence attached to it.

Articles 95, 105, 107, 108 and 122 specify that amusement-with-prizes machines can only be used in amusement arcades and similar premises that have been granted an amusement permit, commercial bingo clubs licensed by the courts, licensed bookmaking offices, the bar areas of public houses and licensed hotels, registered clubs and travelling and showmen's pleasure fairs.

Article 81 of the 1985 Order prohibits anyone from supplying a gaming machine unless they hold a gaming machine certificate or, in the case of a single transaction, a gaming machine permit. Article 129 allows a landlord to evict a tenant or occupier of any premises who is convicted of allowing the premises to be used for the purposes of gaming.

So, overall, we consider that there are sufficient powers within the 1985 Order to allow for enforcement action to be taken against such premises as taxi depots and fast-food restaurants.

On data collection from the court and general data collection, we have, as you said Chair, been having ongoing discussions with the professional services unit about how, when and what type of data we could gather, and about establishing some baselines. A prevalence study was scheduled for 2021 but was postponed owing to COVID as no face-to-face surveys are currently being undertaken by NISRA.

Separately, the professional services unit is having discussions with its colleagues in the Department of Health as there is limited information about the numbers of people presenting to services reporting gambling as a primary cause of their addiction or poor mental health. Discussions are also taking place with colleagues in the South and with the Gambling Commission in Britain with a view to piggybacking on any surveys or research being undertaken in those jurisdictions.

The professional services unit is exploring the options for having a set of questions included within surveys such as the young person's behaviour and attitude survey aimed at 11 to 16-year-olds, and the continuous household survey. As I said, these surveys are currently suspended owing to COVID because they are face-to-face, and surveyors are not allowed into schools at the minute.

Article 177 of the 1985 Order allows us to request returns from the courts about the number of licences or permits issued, the number revoked as a result of a conviction or an offence, and other information as required. This information is being collated. The returns were due back last Friday but have not all come in. As soon as we get a copy of all the returns, we will let the Committee have that information. So far, it is not yielding any information about the number of gaming machines, which is an option that the courts have. They can specify the number of gaming machines per licence.

The Minister recently wrote to the Treasury Minister seeking a copy of any useful data that HMRC might hold, for example the amount of gaming duties paid by operators here or the number of machines from which gaming duty is collected. A response was received on 14 January. HMRC claims that such data is not available below UK level and that, in any event, it has no powers to allow us to have access to that information.

Research and statistics will form an integral strand of the proposed phase 2 reforms. However, other Departments, in particular the Department of Health, which is responsible for treating gambling harm will need to invest in research, particularly in treatment models. If the Department of Health decides that it wants to adopt a public health approach, it would obviously need to invest in evidence-based public information campaigns.

Finally, further discussions will need to take place with HMRC to see whether we can get some data-sharing agreements and to find out exactly what information it holds. That is it, Chair.

The Chairperson (Ms P Bradley): OK. Thanks, Martina.

Do any Members want to comment on clause 6? Did you want to come in, Paul?

Mr Frew: Yes, on the data collection piece. Going forward, that will be very important in informing any sort of strategy. We have an enabling clause for a code of conduct or practice and one for an industrial levy. Should we have an enabling clause to give you guys the power to collect data from third parties?

Ms Campbell: We have article 177 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, which allows us to require information from the courts. That is probably sufficient. The Courts and Tribunals Service has agreed to have discussions with us once we collate that information to see whether there is anything more that it could do to help us and to give us data. Last

Thursday, we talked about being able to interrogate the data properly and extract more useful information. Given the legislative framework that we have, we probably have sufficient powers without specifying that.

Obviously, we will develop a new regulatory framework in phase 2. If the decision is made to go for a regulator, it would receive more information from the licensees, such as the Gambling Commission receives. The Gambling Commission receives a lot of financial data, tax data and all of that. That is why it can produce all those reports about the gross gambling yield, the number of players, the amount of money that is being spent etc.

I do not think that such an enabling clause would be useful in the Bill. We do not have the capacity to do that right now.

Mr Frew: OK. Thank you.

The Chairperson (Ms P Bradley): OK. Is there anything further on clause 6, folks?

Mr Durkan: I have one wee point. Martina, I think that you said that there were sufficient powers or that the existing legislation — the Order — was sufficient to allow action to be taken on illegal machines or machines that are in premises unlawfully and should not be there. Does the Department have any information or any idea about how frequently those powers have been or are used?

Ms Campbell: No, we do not. I am sorry; we do not. We can contact the PSNI and ask. We do not have that information to hand, but we will certainly see whether we can get any info for you on that.

Mr Durkan: That would be useful, Martina.

Ms Campbell: OK.

Mr Durkan: It will help the Committee determine the adequacy of the existing powers in that regard.

Here we are again. We are dealing with gambling legislation, and I do not know whether there is any intention to look at that aspect of it in the next mandate. We have to deal with illegal as well as legal gambling.

Ms Campbell: Yes. Obviously, I cannot speak for the police, but I think that one of the issues is that it probably has to prioritise.

It is an offence for anyone to supply fast-food premises with gaming machines. There is an offence for the fast-food owner, and an offence for whomever supplied that machine. There is also the offence that they are not licensed. There are sufficient powers there; it is up to the police to enforce them. It is a decision for them as to whether they choose to use those powers.

Mr Durkan: Yes, although there might be an issue around their awareness of them as well.

Ms Campbell: Yes.

The Chairperson (Ms P Bradley): Clause 7 concerns the offence of inviting etc persons under 18 to play gaming machines. Last week, we queried how a grab machine could have money wrapped around a prize as under-18s play those machines in shopping malls etc. Officials confirmed that that is illegal and that they are working to eradicate that on a voluntary basis. Officials were asked to confirm what work has been done in that regard. Members also queried why there were no notices on the front of gaming machines regarding the law on maximum prizes and legal age to play the machines. Officials were asked to confirm whether that is something that could be done in the Bill or through more detail being provided in the code of practice. Martina, will you respond to those queries?

Ms Campbell: Surely. Again, it is for the courts to provide a definitive interpretation of the law, but grab machines with prizes in excess of £8 should not be accessible to children under 18. There are different kinds of grab machines, which I probably should have made clear last week. Where the machine is based on skill, that is not covered in the gambling legislation. The grab machines that are based on chance rather than skill fall within the 1985 Order; they are amusement with prizes lower machines. The maximum stake for an amusement with prize lower limit machine is 30p per play, and

the maximum value prize is £8. There are three options for the payment of that prize: it can be £8 in cash; a non-monetary prize, such as a teddy bear or tokens exchangeable for a non-monetary prize up to the value of £8, or a combination of a cash prize and a non-monetary prize; or tokens exchangeable for such a combination up to the value of £8. Another type of grab machine is one in which the maximum prize can be up to £25. The prize must be paid directly from the machine in cash, and the maximum stake per game is 30p.

There are no restrictions in the 1985 Order specifically on the use of gaming machines by children. There are, however, restrictions on the access of under-18s to certain premises in which gaming machines may be available for use. Under-18s must not be admitted to licensed bookmaking offices. That prohibition does not apply if the young person has reached the upper limit of school age leaving and is an apprentice to the bookmaker. Under-18s cannot be allowed in to amusement arcades or similar premises that hold an amusement permit. They cannot be admitted to those premises, or parts of those premises in which £25 prize machines are available.

The purpose of clause 7 is to introduce a new offence of inviting, causing or permitting a person under 18 to play anything other than a lower limit gaming machine, i.e. machines with a maximum prize value of £8.

The Chairperson (Ms P Bradley): So, Martina, there could be a grab machine that gives a prize of a £20 note or whatever wrapped around something, but that is for over-18s only to play.

Ms Campbell: Yes. There could be a grab machine that has a £20 note, but it is not covered under the legislation because it relies on skill. Those machines are excluded. It is only games of chance that are classed as gambling. They are what would be covered in the gambling legislation.

The Chairperson (Ms P Bradley): Can you see any way round that? Could a company, or whatever, argue that a machine is based on skill and not chance? In my opinion, they are all based on chance, not that I know much about it because I have never played one.

Mr Durkan: If I win, it is based on skill. *[Laughter.]*

The Chairperson (Ms P Bradley): You can see that you might be told, "It's a skill to do this", when we all know that it is not. What is skill for any machine?

Mr Frew: Have you any information on how many crane drivers win the prizes? *[Laughter.]*

Ms Campbell: No. You would need to examine the mechanisms. That is how you would establish what type of machine it is. Most of the skill-type machines are older machines. Certainly, it is the intention, in phase 2, to better regulate all those machines and to bring them under the legislation. Unfortunately, it is not possible, at this stage, to include the definitions of gaming machines, or to expand the definitions of gaming machines, in this legislation.

The Chairperson (Ms P Bradley): I have got myself totally confused. Are under-18s allowed to play a gaming machine that is based solely on skill and has a higher prize?

Ms Campbell: Yes. If it is based solely on skill, it is not covered by the 1985 Order. However, most of the machines now have random-number-generating software, so they are games of chance, and those are covered. Those machines with the higher prize of up to £25 are not allowed to be played by under-18s.

The Chairperson (Ms P Bradley): I think that I have got that now.

Ms Campbell: Sorry.

The Chairperson (Ms P Bradley): It is OK. It is not you, Martina; it is me. Does anyone have anything further to ask on the clause?

Mr Durkan: What about games that are a combination of both? Some games are quiz games, but there is also a chance element to them.

Ms Campbell: If there is any element of chance, it is covered. Generally speaking, if it relies on skill — again, you would need to examine the mechanism within the machine to be sure of that — it is not covered under gambling legislation. If there is any element of chance, it is caught within the legislation. It is either an under £8 machine, which under-18s are allowed to play, or it is an amusement machine with prizes lower than £25, maximum, which under-18s are not allowed to play.

The Chairperson (Ms P Bradley): Are you clear, Mark?

Mr Durkan: Yes.

Ms Campbell: Clear as mud.

The Chairperson (Ms P Bradley): Last week, Kellie brought up an issue about notices being placed on the front of the machines rather than in the vicinity. Have you anything further on that?

Ms Campbell: Yes. Sorry, I thought that I had covered that. There is no requirement to display such notices on machines. However, there are requirements for notices to be displayed outside and inside premises where high-stakes gaming machines are located. When a council is granting an amusement permit, it considers conditions, including whether there are physical barriers in place on the premises in which machines for over-18s are located. It also requires a notice to be displayed at the entrance and inside. I included in the response an extract from the article. I will not read that unless you want me to, Chair, but, basically, the council can delay issuing the permit until it is satisfied that the premises has sufficient physical barriers in place.

The code of practice, on page 12, as currently drafted, has the requirement for a notice to be displayed inside, as well as outside, the premises. If the Committee wishes, we can amend the code of practice to require a notice to be displayed on the machine itself or, where that is not physically possible, such a notice to be included on the base of the machine. For example, if the design of the machine means that the notice would cover the monitor, we can require that a notice be displayed close to the machine where it will be visible.

Overall, we believe that new article 124A, inserted by clause 7, which is the offence of inviting, causing or permitting a person under 18 to play a high-stakes gaming machine, will strengthen the existing protections.

The Chairperson (Ms P Bradley): Thank you for that. In certain licensed establishments, such as a private members' bowling club, there will be a sign on all the machines because children will be there. They generally have signage saying, "Over-18s only" on the machines. A lot of those businesses are quite responsible when it comes to signage.

Ms Campbell: Yes.

Mr Frew: On clause 7, it has been brought to my attention that there is a degree of difference between our gaming machine legislation and that in GB. First, have we established that GB has got it right? I believe that the issue has dogged the Assembly for a good number of years. How does the Bill fix the gaming machine issue and the fixed-term betting terminals issue?

Ms Campbell: I am not entirely sure what you are getting at there.

Mr Frew: I am not sure myself.

Ms Campbell: My understanding is that you are asking about the difference in how we treat fixed-odds betting machines, with the stakes and prizes having £2 and £500 limits. Currently, in the legislation, we treat fixed-odds betting terminals as high-stakes gaming machines. Therefore, the current maximum stake is 30p for £100. Ciarán will correct me if I am wrong on that.

The Chairperson (Ms P Bradley): Hold on. Ciarán is trying to come in.

Mr Mee: I hope that I am not causing any more interference. The maximum stakes are 30p and 50p. Is it £100?

Ms Campbell: Yes. I think that it is £100. Thanks, Ciarán.

Mr Mee: That is off the top of my head, so I will double-check that.

Ms Campbell: At the minute, the stakes and prizes here are the lowest anywhere on these islands. In 2019, when England changed its legislation to make £2 the maximum stake per play on fixed-odds betting terminals, bookmakers here that are members of the Northern Ireland Turf Guardians' Association (NITGA) voluntarily agreed to reduce their machines to the same figure. Obviously, the bookmakers were trying to be responsible. We had hoped to insert a much clearer definition in the Bill for fixed-odds betting terminals. However, colleagues from the Office of the Legislative Counsel (OLC) cautioned against that and generally against transporting definitions from the British Gambling Act 2005 into our Order. The main reason for that is that our Order is so old, and it deals with betting and gaming separately, as opposed to treating everything as gambling. The Minister had intended to be very clear on fixed-odds betting terminals, but that is not possible at this stage. That will be dealt with in phase 2.

Generally, legal stakes and prizes here are much lower than in any other jurisdiction. On the issues that you referred to fixing, Paul, that is probably the whole issue of fixed-odds betting terminals and that people can lose extortionate amounts of money in them. We believe that that issue has largely been resolved. In fact, when the DCMS issued its call for evidence on the review of the Gambling Act 2005, it received over 16,000 responses, and it advised us that no substantive concerns were raised about fixed-odds betting terminals in any of those 16,000 responses. I should also say that fixed-odds betting terminals are generally available only in bookmakers' offices here. They are not generally available elsewhere. I hope that that maybe answers your question.

Mr Frew: That was very informative and thorough. Thank you. It is the same, then, for what I would call "bog-standard" gaming machines? Are there any differences there?

Ms Campbell: The difference would be the stakes and prizes. The other difference would be with definitions. England has, I think, about eight or nine different definitions of gaming machines. However, by and large, they all have the same limit. I do not have my stakes and prizes limits tables to hand, but I will send those through after the meeting, so that you can see what the limits are in England, Scotland, Wales and the South of Ireland. In fact, the South only changed its limits last year, and it is the same. It is a €5 maximum stake and a €500 prize. The lower machine has, I think, a 30 cents stake and a €7 prize. I will send those tables through to you after the meeting.

Mr Frew: Yes. Whilst you have been advised that, because of the age of our legislation and the difference between gaming and betting, that should not be in the Bill, is there something that you can do with the code of conduct that would shore up that assurance?

Ms Campbell: Yes. We have done that in the code of practice. We covered fixed-odds betting terminals. Currently, the 1985 Order permits a maximum of two machines in bookmakers. That is specified in, I think, article 108. We have taken that and inserted it in the code of practice.

We will come on to talk about the code of practice, but I cannot emphasise enough that it is in draft form. We are happy to take on views to see whether we can do any more in the code of practice that we cannot do in legislation at this time.

Mr Frew: Thank you.

Ms Campbell: Thank you.

The Chairperson (Ms P Bradley): All right. Thanks, Martina. Does anybody have any further comments on clause 7? No. All right.

Clause 8 is "Arrangements not requiring persons to pay to participate". The discussion on this clause last Thursday centred on the two key issues of promotional prize draws and prize competitions. Members wished it to be clear in the Bill that companies can include Northern Ireland residents in such draws and competitions and that it is not illegal to do so.

Officials highlighted the fact that clause 8 sets out to remove the requirement to pay, but that further thinking may be required around those matters. Officials were asked to update the Committee on what

further actions could be taken or wording included in the Bill to respond to the concerns raised by the Committee. It is over to you again, Martina.

Ms Campbell: I appreciate that this is very confusing. I think that I got myself into a bit of a muddle when I was talking about it last week, but I will try not to do that this week.

As the law stands, the conduct of any prize competition in which:

"success does not depend to a substantial degree on the exercise of skill"

is prohibited. Under Part IV of the 1985 Order, any competition arrangement is deemed to be a lottery if participants are required to pay to participate. Promotional prize draws that require the purchase of a product, such as a chocolate bar or newspaper, or the use of a service, such as the taking out of a bank or building society account, to qualify for entry into a prize draw or competition could technically be construed as requiring a form of payment for participation and would therefore constitute an illegal lottery. That is because those draws do not fall within any of the permitted lottery categories that are set out in Part IV of the 1985 Order.

Clause 8 and clause 11 make express provision for circumstances in which arrangements should not be deemed as payment to participate. Schedule 15A sets out those circumstances in more detail. Clause 8 amends article 131 of the 1985 Order, "Illegality of lotteries", to make it clear that free draws are to be excluded from the clause. The proposed new schedule 15A sets out what is and is not considered to be payment to enter.

For ease of reading, we have reproduced in our paper how article 131 will read, assuming that clause 8 is approved. I will not read that out unless you want me to, Chair, but it basically makes it clear that an arrangement is not a lottery unless persons are required to pay to participate.

Prize competitions in which:

"success does not depend to a substantial degree on the exercise of skill"

are prohibited under article 168. For ease of reading, we reproduced what article 168 will look like if clause 11 goes through. Again, I will not read that out, but it basically says that, for the purposes of this article, an arrangement is not a competition unless persons are required to pay to participate. It then draws the reader's attention to schedule 15A.

I think that schedule 15A reads quite straightforwardly. On balance, we believe that further clarification of or amendment to the clauses is not needed. With regards to giving any *[Inaudible owing to poor sound quality]* —

The Chairperson (Ms P Bradley): You have frozen, Martina.

Ms Campbell: — because —

The Chairperson (Ms P Bradley): Sorry, you are OK.

Ms Campbell: Oh, sorry?

The Chairperson (Ms P Bradley): You froze for a moment there, but you are back.

Ms Campbell: Sorry. My internet seems to be flickering on and off today. Apologies for that.

On balance, we think that further clarification is not needed, because schedule 15A is pretty straightforward and sets out what is and is not payment. Ultimately, it is for the companies involved to make the decision on whether to change their position on allowing residents here to enter such draws.

Hopefully, you got all that.

The Chairperson (Ms P Bradley): We did indeed. Paul Frew is champing at the bit to come in.

Ms Campbell: I imagine that he is. *[Laughter.]*

Mr Frew: You are much more learned than me, Martina.

Ms Campbell: I do not know what makes you say that. *[Laughter.]*

Mr Frew: I am still struggling with clauses 8 and 11 and schedule 15A. Although you say that they are clear, I still cannot see where they tell me that my bank can offer me a prize draw by virtue of the fact that I am named on a bank account there. I understand that you do not want to change the Bill, because, you say, it lays the matter out clearly, but I do not see that clearness. Can you simplify this stuff in the explanatory and financial memorandum (EFM) to make it clear?

Ms Campbell: Yes.

Mr Frew: I can see something happening here. Mark talked about the enforcement of the laws and the police issue with gaming machines. This is not like that. Northern Ireland has 2% of the UK's population; the big banks and building societies will not change their ways just because the Assembly changes its laws. It will take a customer's challenging them on it and saying, "You should offer me this because the law has changed" for them to change. If people can point to a line that states that a bank or building society has nothing to fear and is not breaking the law in Northern Ireland, that will help the customer base and the population of Northern Ireland, so that is what I want to see. That will also help me to go to my constituents and say, "There it is". I cannot do that at the minute with clause 8, clause 11 and schedule 15A. If you cannot change the Bill — I understand why you do not want to tamper and mess about with it at this stage, if you say that it is clear — the white paper of the EFM is the way to do it. That is my ask.

Ms Campbell: Yes. I am sorry that I have not provided —

Mr Frew: It is not your fault; it is my fault.

Ms Campbell: Schedule 15A might help, when we come to that. Basically, what you are talking about — the bank or building society type of draw — is a promotional prize draw. The fact that you have to have, I think, £10,000 in the Halifax, for example, to be entered into the draw means that, technically speaking, you have purchased a product. No free entry route is available for other citizens in Northern Ireland, however, which makes that draw illegal. Clauses 8 and 11 say that a draw is not illegal as long as entry to it is free. If you are buying the product — the chocolate bar or, as Ciarán mentioned last week, the washing machine — you are buying it anyway, and you are then being entered into a free draw as a bonus or as an incentive to buy that product. The draw is free, however; you are not paying any more than the price of the product that you are purchasing. That means that there is no payment to enter the draw.

Mr Frew: I get that. Where I am struggling is that clauses 8 and 11 basically clear the way.

Ms Campbell: Yes.

Mr Frew: They do not explicitly state that this can now take place.

Ms Campbell: Yes.

Mr Frew: They basically clear the way.

Ms Campbell: Yes, they remove impediments, we think.

Mr Frew: Yes, they do, and I agree with that. I would like to see an example in the EFM. There have been occasions when you are able to cite in the explanatory notes an example of what clauses 8 and 11 would do. I am not saying that it needs to be on both. You could use the example of the bank or building society account.

Ms Campbell: Yes, surely. We will certainly look at that, and, if it is possible to put it in the EFM, we will do that. That is not a problem. We will explore that with the OLC and come back to you.

Mr Frew: OK. Thank you very much. We have spent a lot of time on this —

Ms Campbell: I know. I am sorry.

Mr Frew: — but it is important. Thank you.

The Chairperson (Ms P Bradley): Go ahead, Ciarán.

Mr Mee: We are going to talk through schedule 15A if we can today. Hopefully, that might help to make it a bit clearer as well. It is complicated.

Mr Frew: Not to put undue pressure on, but you do realise that we are in a tight timescale, so, when we talk about things that need to be looked at or changes to be made, we are talking about days.

The Chairperson (Ms P Bradley): Yes.

Mr Durkan: Apologies in advance to Ciarán and Martina. I asked a couple of questions around lottery issues last week and what constitutes a charity or a society and the running of them.

The Chairperson (Ms P Bradley): That is our next one: clause 9.

Mr Durkan: Is it? Sorry.

The Chairperson (Ms P Bradley): This is clause 8. We have not got to clause 9 yet.

Mr Durkan: OK. You have been warned. There is a bit of crossover, but I will wait until clause 9.

The Chairperson (Ms P Bradley): You are going to wait?

Mr Durkan: I will wait.

The Chairperson (Ms P Bradley): OK. All right, we will move on to clause 9, "Rules for societies' lotteries". We recognised last week that this clause needs careful consideration due to the potential impact on organisations that wish to raise money in this way. Officials highlighted the fact that the Minister wishes to raise the maximum prize limit from £25,000 by secondary legislation.

The Committee requested sight of the draft regulations as soon as they are available. Members queried whether the Bill was sufficient in how it deals with the calculation of prize funds and referred to article 137(14). The Committee requested clarification on this issue. Members also queried why the Bill was repealing the limit on the ticket price completely and whether a new enhanced limit would not be better.

Officials stated that the Minister was minded to look at an amendment in this regard. However, the sector was divided on what the limit should be. The Committee requested that the Department looked again at this clause and considered a new limit.

Martina, back to you if you want to give us a response to that.

Ms Campbell: Surely. Thanks. We will provide drafts of the secondary legislation as soon as possible. It is expected, as you said, that secondary legislation will amend the maximum prize limit and the maximum proceeds.

The policy intention behind stipulating limits on spending on prizes and expenses is to maximise the amount of money that can be raised for good causes. For ease of reading, we reproduced article 137 as it would read if amended. With your permission, Chair, I will not read all that unless you want me to.

As regards the ticket price limit, having listened to all the evidence and the views expressed, the Minister is minded to accept an amendment setting a new ticket price and would welcome views from the Committee on what the limit should be. As you said, the sector is divided. Some clubs and charities run draws with smaller prizes every month and a major prize in month 12 such as a car. Such tickets can be paid off in monthly instalments, which does not put people under as much pressure to purchase. That type of draw enables clubs and charities to have a steady source of income and allows them to plan activities based on that.

As stated, the Minister intends to increase the maximum limit as well as the limit on whole proceeds; whole proceeds is the total value of ticket sales.

The Chairperson (Ms P Bradley): Thanks, Martina. I will go to Mark first.

Mr Durkan: I am not so sure that my question is in the right place. Are there any trans-frontier issues here? I am conscious that I live in a border constituency, and we still have a border on the island. Would there be any impediment to lotteries that are run on an island-wide basis by a society or charity based in the South being promoted in the North under the current legislation if, say, the ticket price or the prize exceeded our current limits?

Ms Campbell: Apologies. I should have checked that before today's meeting. I think that there would be no issue with anybody here buying a ticket, but there may be an issue with its being promoted here. I would need to check that for you and come back on that point. Apologies. I think that you raised something like that last week and I missed it.

Mr Durkan: I might have. OK. Thank you, Martina.

Mr Frew: You have told us that the Minister is now minded to put a new price limit on the tickets, and the intention of the Bill is to repeal that line. Now the Minister and the Department are considering putting a new one in. You asked the Committee for its views. I suspect that the problem that the Committee will have is that we have not consulted on it, as has been the case for you guys. You guys will have much more information and stock than we have as a Committee because we are just scrutinising your work and your Bill. That is a concern.

If we are settled that there has to be a new limit, we have to get it right. The Committee is here to help, but how can we help when there is such a tight timescale? If we are minded to put a new limit — we are days away from ending our deliberations, and you are weeks away from going to Consideration Stage — what do we do in order to change the Bill and put a limit that the Committee and the Department are confident about?

Ms Campbell: The Northern Ireland Council for Voluntary Action (NICVA) made a substantial submission, and, from memory, its view was that it wanted no limit, but the Minister is of the view that there should be some limit, having listened again to all the evidence. We will go off today and draft some instructions for the Office of the Legislative Counsel and, hopefully, get an amendment to you, probably for Monday but it depends on what work OLC has on at the minute because, as you know, there is a lot of legislation going through. We hope to get something off to the OLC, and, hopefully, we will have an amendment for you to look at for next Tuesday's meeting. We will do all that we can, and, as I said, the Minister will make a decision on what the limit should be.

Mr Frew: I may be pre-empting your work here, and maybe you are not settled on that as yet — that is OK — but will that amendment include a cost sum, or will it be an enabling amendment to allow you to set it at a future date?

Ms Campbell: We could probably do it either way, but our intention was to put a limit in. There is an enabling power in that clause, which allows us to change limits by secondary legislation.

Mr Frew: OK — in the existing article 137?

Ms Campbell: Yes. It is in paragraph (20) or (21) of the existing article 137.

Mr Frew:

"The Department may, by order subject to affirmative resolution substitute for any amount or percentage specified in this Article such other amount or percentage as may be specified in the order."

Ms Campbell: Yes. We can do it by secondary legislation. We have just done the repealing in the Bill for convenience. We will be doing secondary legislation anyway, but, because it is in the Bill as being repealed, we will have to put this one back in again and put a limit. That one has to be done as an amendment.

Mr Frew: OK, I get that. I am clear on that one. Thank you.

Ms Campbell: That is great. Thanks.

The Chairperson (Ms P Bradley): Thanks, Martina. Do members have anything further to ask on clause 9? No.

We will move on to clause 10, "Qualifications by age, residence or corporate status for licences, certificates and permits". No queries were raised by the Committee requiring responses from the Department beyond what was discussed last Thursday. Do members have any comments today on clause 10? No.

We will move on to clause 11, "Prize competitions not requiring persons to pay to participate". Members raised concerns that, although you may not pay to enter certain competitions, you are providing data that is valuable to organisations. One member reiterated concerns that the Bill may still not be clear enough at clauses 8 and 11 on the issues regarding promotional prize draws etc. The Committee is still considering issues around clauses 8 and 11. I will ask Martina to go through the key points in relation to all that.

Ms Campbell: OK. I will skip through the stuff that I have already talked about at clause 8. As the law stands, the conduct of any prize competition in which success does not depend to a substantial degree on the exercise of skill is prohibited. Clause 8 amends article 131 of the 1985 Order to make it clear that free draws are to be excluded from that clause. Proposed new schedule 15A sets out what is or is not considered as payment. We have reproduced article 131 as it would be amended.

What else do we have there? We think that that should be a bit clearer. We do not think that any further clarification is needed. However, taking on board Paul's earlier point about changing the EFM, we will look at that and see what we can do to provide complete clarification.

The Chairperson (Ms P Bradley): OK. Thank you, Martina. Do members have any questions about clause 11?

Mr Frew: I am content with clause 11. There is a discussion to be had about proposed new schedule 15A, but I will hold my whisht until then.

The Chairperson (Ms P Bradley): OK. If no one else wants to ask anything, we will move on to clause 12, "Cheating". Members queried the penalties associated with the offence in this clause. Officials stated that those are on a set scale, and it is unlikely that there is any room to alter them, but they would be happy to check that. Officials were asked to confirm what the convention is in that regard. Over to you again, Martina.

Ms Campbell: OK. Fines and penalties are based on what is called a standard scale, which is set out in the Fines and Penalties (Northern Ireland) Order 1984. Before setting the penalty that is attached to any new offence, officials are required to liaise with colleagues in the Department of Justice, who are responsible for the law on offences and penalties, to make sure that the tariff that is being applied is appropriate and proportionate. We did that, and DOJ confirmed that it was both proportionate and appropriate.

I will draw members' attention to a similar offence in the Gambling Act 2005 in England, which carries a level 5 fine and a prison term of up to 51 weeks or both. Our level 5 offence carries a prison term of six months. I have reproduced the Gambling Act clause. Generally, if you look at schedule 18, I think, which sets out the offences in the 1985 Order, you will see that most of our offences would attract a level 5 fine and six months' imprisonment or both.

The Chairperson (Ms P Bradley): Does anyone have anything further to ask on clause 12? No.

We will move on to clause 13, "Enforceability of gambling contracts". No queries were raised by the Committee that required a response beyond what was discussed last Thursday. Do members have further comments on clause 13? No.

We will move on to clause 14 "Industry levy". Members expressed concern regarding the wording of article 172A(6) in clause 14 around which groups would be consulted on the levy and whether the industry should be consulted. We also expressed concern regarding the National Lottery terminals and scratch cards being such a large part of gambling in Northern Ireland and part of the addiction issues in NI. We queried whether the National Lottery would be part of the levy. Officials stated that the lottery is legislated for by Westminster and therefore cannot be part of the Bill. The Committee requested that the Department provide improved wording proposals for clause 14. Over to you again, Minister — sorry, Martina. There you go: you are now the Minister.

Ms Campbell: Thank you for that promotion. *[Laughter.]*

The Chairperson (Ms P Bradley): The Department's letter of response states that the:

"Minister is minded to accept an amendment which expands the requirement to consult as suggested by Committee".

Will you take us through the response, please?

Ms Campbell: As I said last week, it was always our intention to consult with other interested parties, such as the health sector and relevant voluntary organisations. Such consultation with all stakeholders who represent the interests of those impacted by the policy is best practice in policymaking. While we understand that many people argued against the industry being consulted, we believed that it should be allowed to express its views as part of a wider consultation with all other interested parties, such as health, the voluntary sector etc. We confirmed that the:

"Minister is minded to accept an amendment which expands the requirement to consult as suggested by Committee".

That would make it clear that the health sector, voluntary sector and other interested parties should be consulted. As I said earlier, we will try to get that amendment to you for next Tuesday's meeting, if that is possible, because it is subject to our drafting the instructions and getting OLC to do the amendment.

The National Lottery is a reserved matter. We cannot legislate around such issues as product placement, location of terminals or the imposition of the levy on the lottery.

The Chairperson (Ms P Bradley): Do members have anything further to ask on clause 14?

Mr Frew: Thank you, Martina. Our phones went boogaloo over the weekend after you produced the code of practice last week. That illustrates how concerned people are with clause 14 and clause 15, "Code of practice".

Ms Campbell: So did ours.

Mr Frew: You can, therefore, see how they can be impactful, even though they are, at this stage, enabling legislation for the future. We need to make sure that the blue pages of the Bill are correct before we can move on. With that in mind, will you go through all the subsections of clause 14 and tell us what the levy does, what impacts it could have, who pays the levy, when do they pay it, what will it be used for and whether it will be voluntary or mandatory.

Ms Campbell: I am certainly happy to go through all of them, subsection by subsection, but it is simply an enabling clause. It does not commit to anything as such. All that detail would be in the secondary legislation.

Mr Frew: I agree, and I take that point, but you are setting out your parameters, and, if your parameters are not right —

Ms Campbell: Absolutely.

Mr Frew: — we will have a problem.

Ms Campbell: You are quite right.

Clause 14 inserts a new article into the 1985 Order after article 172. That will allow the Department to:

"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."

The new article will apply to the licences that are granted under the 1985 Order, which are licences for bookmakers, bingo clubs and gaming machines or amusement permits. All those people would be obliged to pay a levy to the Department.

The regulations that we would make under that power would set out the amount of the levy, how it will be paid, when it will be paid, how often it will be paid and all that. Under article 172A(3)(a), it would:

"make provision for the determination of the amount of the levy according to a specified formula or in some other way".

That means that the regulations would specify whether we would use a formula based on a percentage — for example, the percentage of the gross gambling yield — or some other way, such as a set amount per licence.

Article 172A(3)(b) gives the Department the power:

"to issue a receipt in respect of payment".

The court will not proceed with the application for the licence:

"unless it is accompanied by the relevant receipt".

Article 172A(3)(c) makes provision for the Department to repay the levy to any applicant whose application for a licence is refused by the courts or counsel. Article 172A(3)(d) allows for:

"modifications of this Order as are necessary... to give full effect to the levy".

That would be any changes that would be needed —

Mr Frew: I am sorry for interrupting you, but on the matter of article 172A(3)(d), when you say "modifications", does that mean secondary legislation again?

Ms Campbell: Yes.

Mr Frew: Right. It is not that you can just make a modification; you have to go through secondary legislation at any given point. Is that correct?

Ms Campbell: Yes.

Mr Frew: OK.

Ms Campbell: Article 172A(4) says:

"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."

I want to be very clear here about the policy intention, because a lot of witnesses raised the point that the industry should not be involved in how the money is spent. The industry will not be involved in how the money is spent. The money is paid to the Department, and the Department will ask or invite organisations to submit projects. The intention is that the projects will primarily be for treatment of gambling-related harm, research or education; for example, it will be for public education campaigns,

going into schools, doing courses and things like that. The Department will set out the criteria for the projects that meet those objectives.

When projects are received, the Department will have an assessment panel to consider which ones should be funded. We are not experts in treatment, so we would have to ask colleagues in the Department of Health to be involved in that or, for education projects, colleagues in the Department of Education. We may also decide to do a technical transfer to the Department of Health or the Department of Education, giving them a set amount of money and telling them that it is for treatment or education purposes.

Mr Frew: I knew that you were going to say that by the way that you were carrying on. Sorry for interrupting you again, but that begs the question: how can we be assured that Departments, including yours, will spend that money wisely? Also, if you transfer money to the Department of Health, how can you, as the Department for Communities, be sure that it will be spent appropriately? I am not sure that one pound of the Department of Health's budget is spent appropriately.

Ms Campbell: OK, well, I cannot comment on that, but I can tell you that very strict parameters would be set and that all of that would be subject to audit. I was just saying that it is possible that we could do a technical transfer. None of that is set in stone. If a regulator were in place for phase 2, which will be subject to the views of the Executive, the incoming Minister and all of those caveats, it may well be that the regulator would handle this. I am trying to provide some assurance to organisations that the industry would not have any say in how those proceeds were used.

Mr Frew: Yes, I get that, and I get why you want to reassure us that the industry would not be involved, but I am not sure that the Department of Health's being involved gives any reassurance either.

Ms Campbell: Who would you suggest, then?

Mr Frew: That is the big question. When you were talking, I was thinking that, in the future, if there is a regulator, that regulator may be best placed to find out how the money can best be delivered on the ground. If we had a fully functioning Government with Departments that were slick and click, and if public health was a major plank of our Programme for Government, there may not be a problem, but we do not have any of that. That is the issue. I am not saying that there should not be an industry levy in the Bill; I am just trying to work out the mechanisms of this enabling clause. You have been very thorough in your answers, which is great, but that raises so many issues along the line.

Ms Campbell: Yes.

Mr Frew: Those issues will be for a future date, but we need to make sure that we are appropriately enabled.

Ms Campbell: You are quite right that the parameters are very important. May I move on to paragraph 5? Are you happy enough?

Mr Frew: Yes, sure. I interrupted you, sorry.

The Chairperson (Ms P Bradley): Mark, did you want to ask something about that?

Mr Durkan: Yes, my question is in relation to that. You said that nothing is set in stone. Should we look at what could be set in stone? I do not know whether you have looked at legislation that other Departments have brought forward, but I am thinking of the carrier bag levy legislation. It is enshrined in legislation that money generated through that levy must be spent on environmental improvement programmes. I know that we are talking about a different type of levy, but it may be worth looking at that. I am entirely supportive of a levy.

The Bill's rationale for Sunday opening, which I am also in favour of, was to ensure fairness for land-based operators. However, the levy in this clause does the exact opposite: it imposes a levy on land-based operators while those that are not land-based get away scot-free.

Ms Campbell: Yes.

Mr Durkan: The legislation is contradictory.

Ms Campbell: Yes. I can understand why you say that. I will come back to that. Going back to your first point about the carrier bag levy, I have not looked at that legislation for a very long time, but I will. The proceeds of the carrier bag levy are to be spent on environmental projects. Subclause 4 does exactly the same thing. We say that the projects should relate to "(a) addiction to gambling" — that wording might be a bit clumsy, and "gambling-related harm" might have been better, so we will look at that — or:

"other forms of harm or exploitation associated with gambling".

I am happy enough with that clause. The regulations will set out more detail about the projects. The regulations could detail how the projects will be assessed and managed.

I see where you are coming from on the contradiction and the unfairness to land-based operators. That is one of the powers that needs a commencement order to be brought into force, and we will come to that in the next subclause. However, before we do any of that, we have a big job to do with the Department of Finance, and, in turn, it has a big job to do with the Treasury to get permission to introduce the levy and be allowed to retain the receipts. That is because a levy is a tax, and, as you know, tax is a reserved matter. We need to be sure that the Treasury/ DOF will allow us to keep those proceeds and spend them here. Is that helpful?

Mr Durkan: Yes. A regulator or a third party to administer the levy aspect of that would be advantageous, rather than the Department doing it, given the danger, particularly in times of ever-straitening budgets, that the levy would be subsumed into the Department and used for general running costs.

Mr Frew: Martina, before you go on, may I take you back to 3(a)?

Ms Campbell: Yes.

Mr Frew: In the same guise, nature and spirit as I asked the question about departmental spend, what do you see as being "a specified formula"?

Ms Campbell: Any regulations made under that article will be fully consulted on. The Committee heard different suggestions on what would be the best model for the levy. The model most often cited as best practice is the New Zealand model, and that is where the cost of treatment is calculated and applied using a formula. That is what I mean by "a specified formula". The formula could be stated as a percentage of the stakes wagered, or it could be the amount of the gross gambling yield, which is the difference between the money wagered and the winnings paid out. It could be something completely different, such as a percentage of treatment centres being made available. That would all be consulted on.

Mr Frew: Who has that information on yields? Is it HMRC, and, if it is, does it have a duty to give that to you?

Ms Campbell: As I said earlier, the Minister had written to HMRC, and we got its response on Friday. It has been quite unhelpful, to put it bluntly. We would have to explore all that and try to establish data-sharing agreements with HMRC.

Mr Frew: Why is HMRC being unhelpful? Is it because information from bookies on profits, yields and taxation does not necessarily have to be in the hands of the Department for Communities?

Ms Campbell: Exactly. It is tax. HMRC publishes statistics, but, as I said earlier, it does so on a UK-wide level. It claims that it does not have data beneath that level. My personal opinion is that I cannot believe that it does not have that by region at the very least. I am quite sure that there are targets and baselines for how much it collects. I imagine that that is the case, but I do not know. I have never worked in HMRC.

Mark talked about a regulator being able to collect some of the money. The Gambling Commission in England gets a lot of financial data from the operators, and I think that I am right in saying that it has some kind of online facility where it can check things, but I am not certain. The commission also

produces statistical bulletins on gross gambling yield. If, by phase 2, it has been decided that we are to have a regulator here, we will look at all that information being available. Have I answered all your points? I have lost my train of thought.

Mr Frew: I think that you were on clause 14(5) when I interrupted you. Sorry.

Ms Campbell: I am glad that you are on the ball. Subsection 5 states that financial assistance:

"may be provided by grants, loans or any other form of financial assistance".

That is a standard clause,. Basically, it gives us a grant-making power, and a grant may be given on terms or conditions that include repayment with or without interest. As I mentioned, it requires the consent of the Department of Finance. That is because it is a tax, and tax is a reserved matter. So, the Department of Finance will have to work with Treasury on allowing us to introduce it, and, most importantly, to be able to retain those receipts so that we can then spend the money on health, research and education.

Clause 14(6) states:

"Before making any regulations under this Article the Department must consult such organisations as appear to the Department to represent the interests of the gambling industry in Northern Ireland."

As I said before, the policy intention is that we will have consulted the Department of Health and voluntary organisations that represent the interests of people who are impacted by gambling-related harm. We have said that the Minister will amend that. She will broaden that and make it explicit that we will consult the Health and Education Departments and any other organisations that represent the interests of those impacted by gambling.

Mr Frew: OK. Thank you very much.

Ms Campbell: Clause 14(7) clarifies that "gambling" means "betting, gaming or participating in a lottery". As I said earlier, because the 1985 Order is so old, betting and gaming are dealt with separately. They do not come under one general term of gambling. That is why we have had to put in that explanation. We talked about the gambling industry and gambling earlier. That is why that is there.

The regulations would be draft affirmative. That completes my explanation of clause 14.

Mr Frew: You have been through the wringer on clause 14.

Ms Campbell: You are all right. That is what I am here for.

Mr Frew: Thank you.

Ms Campbell: You are welcome.

The Chairperson (Ms P Bradley): If there are no other comments or questions on clause 14, the industry levy, we will move on to clause 15. We might have a bit of debate on that as well, so I suggest that we take a quick five-minute break and resume after that.

The Committee suspended at 11.36 am and resumed at 11.42 am.

The Chairperson (Ms P Bradley): Welcome back, everybody. We were just commenting, Ciarán, that you were sitting down there with your cup of tea.

We move swiftly on to clause 15. I have a wee bit to read out, so bear with me. Martina and Ciarán, we have this room only until 12:15 pm, so we are up against the clock. We will deal with clause 15, which is on the code of practice, and the schedule.

Members, the Committee requested that officials go through the code of practice and schedule 15A to the 1985 Order in more detail today. A few queries were raised last week on the code of practice,

including putting a credit card ban in the Bill, and officials stated that it would not be good practice to put such items in the Bill and that it would be better to put those in the code of practice. They highlighted that, in England, it is a condition of the licence to adhere to the code. Members, Drumbo Park has written to say the following on the draft code:

"Much of the draft code is sensible procedural arrangements which we support. However, the provision relating to affordability checks at the proposed threshold is ... unworkable for licensed tracks and other betting operators."

It continues:

"It will push customers into the black market and online betting that is unregulated and mostly run by companies outside NI, many in tax havens."

"The provision will also push customers across the border to licensed tracks in ROI and drive another nail in the coffin of licensed tracks in NI who have experienced (and continue to experience) incredibly challenging trading conditions during the last 2 years".

It went on to say:

"We take the view that the proposed provision is a fundamental change to betting practice in NI that should be subject to detailed scrutiny by the Committee based on evidence provided by the industry."

"Based on that evidence, we respectfully suggest the Committee will conclude that the unworkable provision relating to affordability checks should not be included in the Code because it would be counter-productive and do untold damage to the industry."

Members, you have also been provided with a letter from the Northern Ireland Amusement Catering Trades Association (NIACTA) on the draft code. It has also said that the code is unworkable and that the four-week consultation period is inadequate. Its letter says:

"Compulsory affordability checks on all customers of land based gambling outlets, or for that matter any retail, hospitality or leisure outlets do not, we believe, exist anywhere else in the world."

It also stated:

"ATM's [sic] are provided in many of our members [sic] premises for the use of debit cards, not credit cards."

It also stated:

"Gaming machine testing is a technically complicated matter and in G.B [sic] is primarily restricted to B3 Machines, i.e. machines which currently have a maximum stake of £2 and a maximum prize of £500."

"The vast majority of the machines in N.I. do not fall into this category and are of a type that no longer exist in G.B. The draft fails to mention specifically what are the terms of reference of the testing, making any testing impossible."

It also stated:

"A proposed implementation date for the code as being the date the Bill receives Royal Assent would mean the entire industry would be non compliant from day one."

It finished by stating:

"In the absence of a regulator even a reasonable code would be difficult to enforce with a level playing field."

Martina, do you have any comments? Also, will you go through the code of practice and proposed schedule 15A to the 1985 Order in more detail?

Ms Campbell: Yes, Chair. Do you want to finish proposed schedule 15A first?

The Chairperson (Ms P Bradley): Yes.

Mr Frew: Yes.

Ms Campbell: OK. I will ask Ciarán to take you through proposed schedule 15A.

The Chairperson (Ms P Bradley): Go ahead, Ciarán.

Mr Mee: OK. I take it that members have proposed schedule 15A to the 1985 Order in front of them. It needs to be read in conjunction with clauses 8 and 11.

I will reiterate what Martina said earlier: the problem at the moment is that, under the 1985 Order, where a person has to buy a product or service to qualify for entry into a non-skill prize competition, it is not generally considered a free draw, on the grounds that there is a payment involved, albeit it is for a product or whatever. Therefore, it instead constitutes an illegal lottery. Through clauses 8 and 11 and proposed schedule 15A to the 1985 Order, we intend to remove the normal costs of paying for a product or service from the definition of a lottery and make it possible or easier to run those kinds of competitions here.

To do that, under clauses 8 and 11, we are inserting an extra paragraph into articles 131 and 168 of the 1985 Order. Basically, that says that arrangements are not lotteries unless a person must "pay to participate", which is a common legal understanding of a lottery. In addition, we propose to set up a new schedule 15A to the 1985 Order. That attempts to define in law what does and does not constitute payment to participate. In that way, we can prevent certain types of draws but allow other types for the first time.

I will start at proposed schedule 15A(2) to 15A(4). Basically, in that section, we want to make it clear what we mean by payment for the purposes of constituting a lottery. In proposed schedule 15A(2) that is "paying money", "transferring money's worth" or where the actual cost of entry to a draw is included or added to the normal purchase cost of a product or service. In proposed schedule 15A(4), we want to make it clear that, if a customer does not know that an entry cost has been included in the price of a product or whatever, it still counts as paying to participate and is, therefore, still a lottery.

In the section headed "Stamps, telephone calls etc" in proposed schedule 15A(5), the aim is to make clear that the normal or ordinary costs of a phone call, postage or other communication will not count in future as paying to participate under the Bill. Therefore, it will be allowed for those kinds of draws.

Proposed schedule 15A(6) and 15A(7) deal with paying to know whether a prize has been won or payment to claim a prize. Our intention there is to make it clear that, if a person has to pay cash or is charged in some way to find out the result of a competition or whether they have won a prize, it would be a payment to participate, and, therefore, the competition would be a lottery under clauses 8 and 11. Proposed schedule 15A(8) is headed "Choice of free entry". We are trying to prevent people being automatically entered into commercial prize draws or competitions. In other words, under paragraph 8, we want people to have a means of indicating whether they want to be entered into a particular draw. There is a distinction to be made between automatic qualification and automatic entry.

Finally, there is a power to make regulations. That is at 15A(9). It gives the Department a new power to make regulations on any kind of new, novel, contentious or highly unusual type of draw or competition. It is, basically, a safety net, or a catch-all, for anything new that might come up in the future.

Bearing in mind your time, I went through that as quickly as I could.

The Chairperson (Ms P Bradley): That is great, Ciarán. Thank you.

Mr Mee: I hope that that was clear — or clearer.

The Chairperson (Ms P Bradley): Members, is there anything that you want to say about proposed schedule 15A?

Mr Frew: Thank you very much, Ciarán, for running through that. The way that you articulated it was very clear. On the stamps, telephone calls etc, is that for when a game show or, say, Ant and Dec, does a phone-in? Does that mean that Northern Ireland does not have to be excluded any more? Is it for that type of thing?

Mr Mee: Yes. Normal cost, or ordinary cost, is key. If there were some additional charge, that might still be a problem, but ordinary-cost phone calls, texts or whatever people have to do would be allowed.

Mr Frew: I do not know why I brought up Ant and Dec, but I think that there is maybe past history there.

Mr Mee: Have you not been able to enter, Paul?

Mr Frew: Maybe, or maybe —

The Chairperson (Ms P Bradley): That is Paul's Saturday evening.

Mr Frew: — they got into trouble in the past about those sorts of things.

The Chairperson (Ms P Bradley): They did.

Mr Frew: That is clear, but I am also very clear that it still does not tell me whether a bank or a building society can offer. That is why the EFM is very important.

Mr Mee: Yes.

The Chairperson (Ms P Bradley): We will turn to the code of practice and some of the issues that were brought up by Drumbo and NIACTA.

Ms Campbell: It is important to emphasise that this is a draft code that we have issued for a focused consultation. It is not a formal public consultation. The Minister has not made a final decision. It was issued on 13 January and runs to 25 February, which is six weeks. I acknowledge that there is a lot of good practice amongst land-based operators. The voluntary codes of NIACTA and NITGA were used in drawing up the code. The Minister is keen to have a code of practice in place. She recognises that some of the concepts, particularly affordability checks, need further development and may be better left to phase 2. We see compliance with the code as a way to drive up standards. Premises that are not members of NIACTA or NITGA will be forced to operate more fairly.

There is a phased approach to compliance. If we become aware that an operator is not complying, we will write to it first to make it aware of the rules and to remind it that we can object. Indeed, the current law states that anyone can object to the renewal of the licence, and it would then be up to the courts to decide.

I think that Paul said that the phones went "boogaloo". My phone has gone boogaloo as well. We just want to hear what people think. We will then take those comments, revise the code, and we think that we will then need a further extended consultation on that. This power in the Bill requires a commencement order, so even if we had all the processes completed, we would need a commencement order before we could introduce those codes.

I will ask Ciarán, if that is OK, Chair, to go through the detail of the code with you.

The Chairperson (Ms P Bradley): OK, go ahead, Ciarán.

Mr Mee: I am conscious of time. I will just say a little bit more about why the Minister wants a code and the basis of how the draft has been drawn up.

Essentially, the Minister is keen to have an industry code of practice because one of the problems with the 1985 Order, besides its age, is that it is inflexible in many areas, with even minor amendments requiring changes to primary legislation. Therefore, part of the purpose of creating a code power

through the Bill is to inject more flexibility into the present system of gambling regulation and to enable us to update and regulate practices more quickly and easily.

The second reason that we are having a code — the Minister wants one — is to ensure that we have a common understanding about what constitutes good practice in the industry. Over the period of the review, we heard a large amount of criticism of the industry and lots of ideas about what it should and should not be allowed to do. Not all the suggestions for improvement are, in the Minister's view, necessarily appropriate for the Bill; instead, she feels that it would be better if they were considered as part of the code.

Whilst many of the criticisms that have been aired publicly about the industry may have merit, there are examples, in our view, of very good and conscientious industry practice. We want, if we can, to capture those good practices in the code in order to help the public and licensing authorities to distinguish more easily between clearly responsible operators and those who might be less responsible.

In how the draft has been drawn up, obviously we are reflecting in a lot of areas the Minister's views. It is also an amalgam of other elements. Some of what you have is drawn from codes that we received from the industry and from social responsibility codes and charters from the Turf Guardians Association and NIACTA. Others draw from Gambling Commission codes of practice. There are also elements in the code that take some account of what the Assembly's all-party group on reducing harm related to gambling recommended for land-based gambling in its report that was published in October. In addition, we have looked at consumer credit and financial conduct standards where affordability and the measures there and self-exclusion schemes are concerned.

The code is divided into sections, so, in some senses, it is codes as much as a code. It may be that we can bring in some sections earlier than others, but part of the reason for our doing that is to cover broader areas across the industry. Its remit is within the framework of the land-based operations.

There are one or two final technical points that I would like to make. On page 7 of your version, you will probably see a reference to having due regard for article 171 of the 1985 Order. That is coming out because the intention in the Bill is to repeal article 171 under clause 13. There are also references to certain articles in the 1985 Order that may need to be renumbered in any final version because it is proposed to repeal certain preceding provisions as part of the Bill. However, we are leaving those to stand as they are for the moment just to avoid confusion.

That, again, is a quick run-through and overview of the code.

The Chairperson (Ms P Bradley): That is grand.

Mr Mee: As I said, it is a draft, and we are waiting to hear responses. We have heard some.

The Chairperson (Ms P Bradley): Grand, Ciarán. Thank you. We all believe most definitely that there needs to be a code of practice. You can understand why there has been the reaction that there has to this matter from the various interested parties. We know that it is a draft code that is being worked on, so we probably will have more discussion on it. We will certainly have discussion on it afterwards, although not after the meeting because we will not have time, but certainly first thing on Thursday morning.

One of the points that NIACTA brought up is the absence of a regulator to enforce any code. What was the answer to that?

Mr Mee: We touched on that last week. We are using powers in the existing 1985 Order. It says in the introduction to the code, which is in the scope section:

"The Codes may also be used by gambling licensing, certifying, permitting and enforcing authorities as an additional aid in assessing the fitness of any persons, companies or other bodies to hold a gambling license, certificate or permit."

Under the present Order, the courts, for example, need to determine the fitness of any person to hold a betting licence. Similarly, the councils will need to do that with amusement permits and so on. So, as we see it, the codes can be used by licensing authorities in order to help them assess someone's fitness to hold a gambling or a betting licence or whatever.

We also point out that anyone can apply to the courts to have a gambling or a betting licence refused, revoked or cancelled, and that is a mechanism that means that the codes can be used in cases of non-compliance, so even in the absence of a regulator, there are ways that the code can be applied by licensing authorities.

The Chairperson (Ms P Bradley): OK, Ciarán. Thank you. Paul do you want to come in?

Mr Frew: Whilst you need a code of conduct and everybody says that it must be mandatory or have teeth, you will understand why it strikes fear in people. There is a debate about the use of the words "may" and "must" in legislation, but I have found another strong word: "but". If you look at proposed new paragraph 180A(8), you will see that it says:

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

and then it says "but". You can see that that has quite a big impact, especially as it:

"must be taken into account by the Department, a court or a district council in the exercise of a function under the 1985 Order."

There is real menace, if you like, with this.

With a code of conduct, we need to make sure that we strike a balance. You talk, Ciarán, about reasonable and less reasonable establishments, but you forget about that third sector, which is the illegal bookmakers. We cannot or should not push punters or customers into the illegal bookmakers. There is a certain irony in that. This may sound really daft, but sometimes when you have a problem gambler, the best place for them to be is in the one bookies alone, where they can be managed and looked after to a certain degree. Knowing that, we need to make sure that the balance is right.

Paragraph 10 says:

"Before issuing or revising a code under this Article the Department must consult".

Who makes the decision that the code needs to be revised?

Mr Mee: Ultimately, the code is the Department's, so it would come down to the Department and the Minister to decide whether the code needs at any time to be revised or updated. With the way that the code is presented, some of it will depend on advice that we receive from, say, enforcement authorities, concerns raised by public representatives or even issues that the industry may have. Those will all come under our consideration. The idea is that, if something is wrong or needs revising, it can be done with relative speed but subject to stakeholder consultation.

Mr Frew: OK. I will push on. We have massive issues around the affordability checks and the spend limit. I have crystallised my thinking on that, and it goes back to the debit or credit card issue. If there is a spending limit, how is that policed across bookmaking companies? You do not want a customer spending a certain amount in one bookies and then going to another to spend exactly the same amount. You want that person to remain in one place so that he or she can be managed and looked after. I have issues on that and on how the self-exclusion piece will work in practice. If you self-exclude from a bingo hall, does that mean that, by extension, you also self-exclude from bookies?

Those are the three areas that I have concerns about, as do most other people who have contacted us. I will ask a question, and then I will end. You talked about the four- or six-week consultation that you are going through. Did I hear right that, after that, you will go to a formal consultation?

Ms Campbell: Yes, that is right. We intend to consult formally on a final draft with the Minister, who is likely to be an incoming Minister, given where we are in time. We are not obliged to consult publicly, but we are obliged to consult formally. We will do that with the interested parties as listed in the clause, so that means the industry and those who are representing the interests of anybody who will be impacted.

Mr Mee: They are all being consulted at the moment.

Mr Frew: Yes. OK. How often do we do informal consultations that are not public?

Mr Mee: In this case, Paul, we are following clause 15 on how the code of practice is introduced. The requirements in clause 15 effectively require a stakeholder consultation. We are putting the code on the web, so any member of the public can access it if they want to. Often in primary legislation, there are provisions for certain types of consultation that are not public consultation, as such.

Mr Frew: Should the mother of a gambling addict not be allowed to input to a consultation?

Mr Mee: There is nothing in the proposal to prevent that happening in a consultation of this kind. We are also consulting organisations that deal with gambling harm and addiction services. As I said, we are also putting the code on the web. Anyone who wishes to comment or to have access to it in order to review it can do that.

Mr Frew: OK. Thank you very much.

Ms Ferguson: I have a quick question following on from Paul's about affordability, and I recognise that you are going out for focused consultation on the code. That is good. The whole area of affordability and customer care is critical. Where does the original guidance come from? I know that you have consulted a range of other codes and guidance, but, specifically on the affordability checks, where has that been in place before, and who operated it? Have you any further information on that?

Mr Mee: We are trying to test the idea of having some kind of trigger limit for an affordability check. I am not aware of anywhere else where that is done. England seems to have ruled it out recently. We have picked up on the all-party group's suggestion of having a £100 trigger limit for land-based outlets. We have tried to map out what that would look like so that it is effective in some way in containing gambling harm, for want of a better term. The only place where I could see it working is in financial conduct and creditworthiness checks. As far as I can see, those types of things are normally associated with lending rather than spending. The proposal is based around that. At this stage, we want to, by having a code of practice, get a debate going on whether people want those kinds of affordability tests. The Minister certainly favours them. First, is that what the people who are advocating affordability tests want? Secondly, is the proposal practical and effective, and, if not, what other options might there be?

Ms Ferguson: I presume, Ciarán, that the likes of the focus group consultation will include the key questions that you just mentioned and that there will be detailed conversations and so on.

Mr Mee: Yes. We want to hear what people think because we cannot come to a full conclusion on it until we have consulted. The Minister is certainly keen that it be done in a reasonably open and transparent way so that, when we reach a conclusion, there will be some understanding of the basis on which it has been reached.

Ms Ferguson: Thank you. It is important that it can be operational.

Mr Mee: Yes. If it is not operational, it will be meaningless. A code of that kind will lose any kind of respectability.

Ms Ferguson: OK. That is great. Thank you.

The Chairperson (Ms P Bradley): OK, members. I am quite conscious of time. We have three minutes left. We will come back to discuss this on Thursday morning when the Committee meets again.

I will move quickly on to clause 16, which is "Short title and commencement". Do members want to ask anything further on that? No? All right; that is great. Thank you.

Martina, will we see the secondary legislation for clause 9 by next week or at least have a written briefing on what it will cover?

Ms Campbell: Yes. We can certainly give you a briefing. We have drafts. They have not been cleared by the legal side yet, but I guess that we can share them with you. That will not be a problem for next

week. We may not have them for Tuesday's meeting, but we will certainly have them for Thursday's meeting, if that is OK. We will do our best for you, as we always do.

The Chairperson (Ms P Bradley): OK. Thank you for that. It is imperative that we get that information. You know that every bit as much as we do.

Ms Campbell: Yes, I know.

Mr Mee: Yes.

The Chairperson (Ms P Bradley): I am conscious that we have two minutes left and that Stephen Dunne has his hand up. No, he has put his hand down. That is OK.

Thank you very much, Martina and Ciarán. That was great.

Ms Campbell: Thank you very much, Chair and members.

Mr Mee: Thank you.