



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

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

25 January 2022

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Paula Bradley (Chairperson)
Ms Kellie Armstrong (Deputy 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): Martina and Ciarán, you are very welcome. Last week, you took us through the key points of the responses that we now have in writing, dated 21 January. We now have the second set of responses, dated 24 January, and the text of the two amendments.

For the sake of completeness, we will go through each clause again, one at a time, but I do not intend to read out all the departmental responses. Members have them in their tabled papers, and they are summarised in the deliberations table. I will ask the officials to highlight the key points as we get to each clause in turn, where we are still deliberating.

We will begin with clause 1, "Interpretation". No queries have been raised by the Committee, so we will move on to clause 2, "Opening of licensed offices on Sunday and Good Friday". Martina, do you wish to highlight any key points in the responses to clause 2?

Ms Martina Campbell (Department for Communities): No, Chair. We have no further comments to make on clause 2.

The Chairperson (Ms P Bradley): OK, that is fine. Do members have any further comments on clause 2? No more than we have already commented? OK.

We will move on to clause 3, "Sunday working in licensed office". Martina, do you wish to highlight any key points in the responses to clause 3?

Ms Campbell: OK, Chair. As you said, you have our responses to last Thursday's meeting. I will highlight that, in response to Mr Allen's request to develop guidance for workers, we reviewed the original correspondence between our Minister and Mrs Dodds. In our response to you, I have reproduced an extract from that. I can confirm that guidance on Sunday working is already available on nidirect, and, of course, the Labour Relations Agency is always available to provide advice to employers and employees. In summary, I can confirm that we will work with colleagues in the Department for the Economy to see whether any additional advice is required. If so, we will update the Committee in due course.

The Chairperson (Ms P Bradley): OK, thank you, Martina. Do members have any further comments on clause 3? No.

We move on to clause 4, "Pool betting". No queries were raised by the Committee. Do members have any further comments to make on clause 4? No.

We move on to clause 5, "Persons who may participate in bingo at bingo club". No queries were raised by the Committee. Do members have any further comments to make on clause 5? Speak now or forever hold your peace. No.

We move on to clause 6, "Days when bingo and use of gaming machines permitted on bingo club premises". Martina, do you wish to highlight any key points from the responses to clause 6?

Ms Campbell: I can confirm that we sent through the responses that we got from the Courts and Tribunals Service. I will point out that that involved a manual trawl through papers, so it has taken a wee bit longer than expected to get those returns. We will send the full and final copy through as soon as it is completed.

On the point about a register of purchasers of gaming machines, no such register exists at the moment. We will, however, look at including that requirement in the code of practice, and we will work with suppliers to agree to develop such a register.

The Chairperson (Ms P Bradley): OK, thank you, Martina. Do members have any further comments to make on clause 6?

Mr Frew: I do not wish to repeat what I said before, but I still have concerns about clause 6, as I do with clause 2. I just wanted to put that on record.

The Chairperson (Ms P Bradley): All right, thank you, Paul.

We will move on to clause 7, "Offence of inviting, etc. person under 18 to play gaming machine". Martina, do you wish to highlight any key points from the responses to clause 7?

Ms Campbell: During the Second Stage debate and in the earlier announcement about the proposals to reform gambling law here, the Minister stated that the scale of the reforms needed meant that her proposed approach, which was agreed by the Executive, would be a two-phase approach. The Bill is the first phase and is primarily aimed at land-based gambling, simplifying the rules around promotional and prize draw competitions and increasing fundraising opportunities for small charities, sports clubs and other societies.

Phase 2 of the reforms will be subject to the views of an incoming Minister and Executive. Given the scale of reform that is needed — including revised definitions of gaming machines, regulation of online and remote gambling, whether we should have a regulator and, if so, what the form and functions of such an office would be — it is estimated that a completely new regulatory framework would be required. On the basis of the provisions in the Gambling Act 2005 in Britain, which is also under review, it is estimated that a new Act of similar size and structure would be required here. The Gambling Act 2005 has 362 clauses and 18 schedules. The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 has 187 articles and 20 schedules. The legislation in the South is spread across a number of Acts and is also under review.

It had been the Minister's intention to include revised definitions of gaming machines in this Bill and, in particular, to make it explicit that fixed-odds betting terminals (FOBTs) are covered in the 1985 Order. However, the Office of the Legislative Counsel (OLC) cautioned against importing definitions or clauses from the Gambling Act 2005, owing to the age, language and structure of the 1985 Order. On

foot of the advice from the OLC, the Minister requested that the Departmental Solicitor's Office (DLO) review previous advice that the Department received about FOBTs, particularly in light of tax tribunals and Supreme Court rulings in England. On the basis of that legal advice, we are satisfied that FOBTs are captured by the definition of a "gaming machine" set out in article 2(2) of the Order.

The Department confirms that it will include in the code of practice a requirement for notices to be displayed on machines that are aimed at over-18-year-olds, clearly stating that those machines are for over-18s only. A section on gaming machines is included in the draft code of practice, but we will review that section when we have analysed all the responses, and we will take on board any recommendations that the Committee makes. We also included guidance on Think 21 in the draft code. We will update our existing leaflets about gaming machines, cross-referencing them to the code of practice and, of course, taking on board any views that the Committee expresses in its forthcoming report. Thank you, Chair.

The Chairperson (Ms P Bradley): Thank you, Martina. Does anybody have any further comments or questions about clause 7? No.

Mr Frew: On a wider piece, Martina, you mentioned the next legislation and the issue of the wording of the 1985 Order being applicable to any fresh legislation. I like the idea of repealing law and renewing it completely. I know that that takes a lot of time and is harder work, but, for me, that leads to more complete legislation than is the case when you try to add fresh law on to existing law. If you do that, I believe that, sooner or later, you run out of road. This is a general issue that goes across the world: Assemblies do not repeal enough law. My general stance is that everything should be renewed.

Ms Campbell: We are 100% behind you on that. You are quite right: we have run out of road with the 1985 Order, which is why we cannot do what we really wanted to do. Phase 2 would be a completely new Act, and the 1985 Order would then be repealed. I hope that that provides some assurance on that score.

Mr Frew: With regard to timescales, it is always better to do that mighty piece of work at the start of a mandate.

The Chairperson (Ms P Bradley): OK, folks, does anybody else wish to make any comments about clause 7? No.

We move on to clause 8, "Arrangements not requiring persons to pay to participate". Martina, will you highlight any key points from the responses? *[Pause.]* Martina, you are on silent.

Ms Campbell: Apologies, Chair. We provided the Committee with a copy of the draft regulations —. No. Am I on clause 9?

The Chairperson (Ms P Bradley): No. Clause 8.

Ms Campbell: Sorry, I am getting ahead of myself. There are no further comments on clause 8, Chair. Sorry about that

The Chairperson (Ms P Bradley): OK. That is fine. Members, are there any further comments on clause 8? No.

All right. We move on to clause 9, "Rules for societies' lotteries". Martina, will you highlight the key points that you wish to confirm in your response to that clause, particularly the draft regulations for societies' lotteries, the amendment on the ticket price in the Bill and the fact that the Minister now feels that the unintended consequences that she identified from that amendment do not require an additional amendment as first envisaged. Will you explain that a bit more, Martina?

Ms Campbell: Certainly. We attached a copy of the draft regulations to our response. We provided those to the Committee to aid its deliberations and to show the direction of travel. Again, I emphasise that they are very much in draft form and have not yet been approved by the DSO or the Minister.

In the proposed amendment, the Minister has agreed to impose a maximum ticket price of £100. We have provided a draft of that amendment.

On the unintended consequences, in discussions with the OLC, counsel pointed us to article 137(4) of the 1985 Order, which provides the Department with the power to vary the frequency of lotteries. Taken together with the power in article 137(21) of the 1985 Order to amend the amounts of ticket prices etc, counsel believes that that is sufficient. On reflection, the Department agrees and is content that it has sufficient powers in article 137 of the 1985 Order to prohibit societies from running too many draws and selling tickets close to or at the upper limit of £100.

Chair, do you want me to read out the text of the amendment? Are you happy enough?

The Chairperson (Ms P Bradley): Read it out, please.

Ms Campbell: OK. The proposed text is:

*"In clause 9, page 4, line 5, leave out paragraph (a) and insert—
'(a) in paragraph (5) (price limit on tickets) for "£1" substitute "£100"."*

The effect of that amendment would be to impose a maximum ticket price of £100 on societies' lottery tickets.

The Chairperson (Ms P Bradley): Thank you, Martina.

Mr Frew: Where exactly is the power that you have, you think, in article 137 of the 1985 Order?

Mr Ciarán Mee (Department for Communities): *[Inaudible]*

Ms Campbell: Sorry, Ciarán. Article 137(4) of the 1985 Order gives the power to vary the frequency of lotteries. Article 137(21) of the 1985 Order gives the power to amend the amounts, which would include the ticket price.

Mr Frew: OK. I am reading it now. Thanks very much.

Ms Campbell: Thank you.

The Chairperson (Ms P Bradley): Members, are there any further comments on clause 9? No.

OK. We move on to clause 10, "Qualifications by age, residence or corporate status for licences, certificates and permits". No queries were raised by the Committee. Members, are there any further comments on clause 10? No.

OK. We move on to clause 11, "Prize competitions not requiring persons to pay to participate". I will go back to you, Martina, to highlight any key points that the Department wishes to confirm in response to that clause.

Ms Campbell: There are no further comments, Chair.

The Chairperson (Ms P Bradley): OK. That is no problem. Members, do you wish to make any comments on clause 11?

Mr Frew: I suspect that we will cover it when we discuss proposed new schedule 15A. I am happy enough to move on.

The Chairperson (Ms P Bradley): OK. We move on to clause 12, "Cheating". Members, no issues were raised. Do members wish to raise any issues on clause 12? No, nothing.

OK. We move on to clause 13, "Enforceability of gambling contracts". Again, no queries were raised by the Committee. Do members have any queries on that clause? No, nothing.

We move on to clause 14, "Industry levy". Martina, will you highlight the key points, particularly the text of the amendment?

Ms Campbell: Sure. The amendment to clause 14(6) relates to the consultee list. We have provided the draft amendment, but, for the sake of completeness, the amendment reads:

"In clause 14, page 7, line 7, leave out from 'the gambling' to end of line 7 and insert—

'(a) persons who have suffered from, or been affected by, addiction to gambling or other forms of harm or exploitation associated with gambling;

(b) persons who have experience or knowledge of issues relating to such addiction, harm or exploitation; and

(c) the gambling industry in Northern Ireland."

The effect of the amendment is to expand the list of persons whom we are required to consult when developing any regulations. We believe that that satisfies the Committee's concern that a broad range of people be consulted.

We have accepted the Committee's request to amend the explanatory and financial memorandum (EFM) to make it clearer that the proceeds of any levy will be used to fund education, treatment and research. That amendment has been made.

The Chairperson (Ms P Bradley): Members, have you anything further?

Mr Frew: Thank you for that. The funding of education, research and treatment is a big issue, so it is good to get that nailed down. Thank you for that. The test for the amendment on consultation is whether it would catch an aggrieved parent of a gambling addict, and I think that it would. The parent would be captured in:

"persons who have suffered from, or been affected by, addiction".

Can you assure me that that is how you read it and that family members will be able to avail themselves of the consultation?

Ms Campbell: Yes, I can confirm:

"(b) persons who have experience or knowledge of issues relating to such addiction, harm or exploitation;"

and, indeed:

"(a) persons who have suffered from, or been affected by,"

would include parents or family members, or friends or colleagues, who have been affected by gambling.

Mr Frew: OK. Thank you.

The Chairperson (Ms P Bradley): Does any other member want to raise anything further on clause 14? No.

We will move on to clause 15, "Code of practice". Martina, you will be aware that there was considerable discussion around clause 15 at last week's meeting. Will you highlight any points in your response to the Committee on clause 15?

Ms Campbell: We confirmed that the code of practice, once finalised, will be published and made available on the departmental website. Further, the codes will be circulated to trade associations, such as the Northern Ireland Amusement Caterers Trade Association (NIACTA) and the Turf Guardians' Association. We will also circulate it to licensing authorities, including the courts and councils, and to the PSNI. On awareness raising, publication of the code will be accompanied by a press release and tweets etc. The Department will also consider whether some other form of publicity, such as an event, will be required. As part of raising awareness of the new legislation, we will review all guidance, documents and leaflets, as well as information on the Department's website. We will also consider

whether adverts about the legislation and the code of practice should be placed in key newspapers or trade magazines.

On breaches of and compliance with the codes, in finalising the codes, the Department will, as suggested by the Committee, include in the drafts and on the website an email address to which the public can send complaints. As a first stage, depending on the nature of the complaint and which type of operator it is about, we will seek the views of the local council, if appropriate. If a criminal offence has been alleged, we will refer to the PSNI. In all other cases, the Department will deal with it. Depending on the nature of the complaint, we will write to the operator enclosing a copy of the code and reminding it of its responsibilities. We will also remind it of the implications of non-compliance. We believe that, in the vast majority of cases, that will be sufficient. If an operator consistently refuses to comply, we would suggest that those who have made the complaints object to the licence renewal, and we will explain how they can do that. In exceptional or persistent cases, the Department will lodge an objection to the licence.

As I said, in finalising the codes, the Department will include in the drafts email addresses to which members of the public can send complaints. On compliance, in phase 2 of the reform, it is envisaged that, if it is decided that a regulator should be established, any new regulatory framework that is developed will wrap around the regulator to give that office the powers of investigation, enforcement, entry and any other powers to enable it to function effectively. It is envisaged that compliance with the code would then be a mandatory condition of the licence, which would be monitored by the regulator.

The Department believes that the provisions in the proposed new article 180A(8), as inserted in the 1985 Order by the Bill, will act as a sufficient deterrent to operators and prevent non-compliance. The new article states:

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

(9) But a code—

(a) is admissible in evidence in criminal or civil proceedings,

(b) must be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant, and

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

Under the 1985 Order, any person can object to a licence or to a permit application or renewal. Any person can also apply for the revocation of a licence or permit. That is known as the "fit person" test, and it includes any member of the public.

At the meeting on Thursday 20 January, a member asked what remedy or safeguards there would be to prevent a future Minister from including in the codes measures or very strict conditions that would indirectly put an operator out of business. I confirm that, where an operator or any other member of the public is adversely affected by a ministerial decision, that operator or person has the option to seek a judicial review of that decision. It would be for the High Court to determine whether the decision was lawful.

Finally, the Department accepts the Committee's suggestion that details of how to report breaches or potential breaches of the code should be included in the code and in any literature issued by the Department or enforcement authority, as well as on the Department's website. That is all I have on that, Chair.

The Chairperson (Ms P Bradley): That is grand. Thank you, Martina. Do members want to raise anything further on clause 15, "Code of practice"?

Mr Frew: Yes. In the first week that the draft code was launched, we had all the managers, owners and proprietors on the phone to us. This week, we had ordinary staff on the phone. You can see how the concern is trickling down. This is now the great concern with the Bill. Everything else seems to have shrunk into insignificance in comparison.

We may have covered this issue when dealing with the commencement provisions this week. I cannot remember, because my brain is quite primitive. The difference between the levy in clause 14 and

clause 15 is, basically, that clause 14 says that the Department "may make regulations". Of course, you have that safeguard of the Assembly, but clause 15 says:

"The Department must issue one or more codes".

I cannot speak for the Committee, but to give the Committee and the Assembly some reassurance, would it be best to also put that in regulation, so that at least the Assembly gets another look at this by way of regulation? I do not know how that would work, because commencement would still kick in on the same day or:

"on such ... days as the Department for Communities may by order appoint."

When you have the final draft code of practice, is there a way or a means of making regulations on it that would then come before the Assembly?

Ms Campbell: I do not know the direct answer to that. It is probably possible, but as I explained on Thursday, there is a process to go through before the Department can issue the codes. In this case, we said that we will have a further, longer consultation once we get the views of the operators back in. We also explained that the power needs a commencement order before we can issue any codes. Certainly as a matter of good practice, the Department would want to consult with the Committee before it imposed any code.

That is off the top of my head. I will ask Ciarán whether he has any views on that, if I may, please, Chair.

Mr Mee: My only immediate thought is that, if we do it by regulation or if regulation goes through, that will have even more teeth, if you like. It will be more mandatory than it is now, if you see what I mean, because automatically it would be law. That is my immediate thought on that in addition to what Martina said.

Mr Frew: Can I add to that? I am thinking as I talk. You said last week that you could issue multiple codes of practice for specific topics, and that would complicate that regulation because those codes would have to come every time, unless you did it in a block. Then, of course, if you wanted to amend any code of practice, it would probably mean something similar, and you would have to come before the Assembly.

I have not got to the end of my thought process on that, but I think that people are still really concerned and worried about this, what it could mean for the industry and what the Department could do on the industry.

Ms Campbell: We will take that away and get a definitive answer for you. Overall, however, codes of practice are not normally done by regulation because they are usually a guide to or interpretation of the law. They are there to help people to comply with the law. That is my general view on that.

One of the main reasons why the code has been drafted and why we included that provision is that the Minister listened to the concerns that were raised by a number of people about how limited the 1985 Order is. The code is an attempt to take on board those issues that we cannot necessarily put into the 1985 Order at the moment. Also, a lot of what is in the code is good practice and is already being done by many operators.

However, we will take away your suggestion and think through again whether we can do something further on it.

Mr Frew: Just to be clear and fair, Martina, I am not saying that it is the right thing to put into the regulations; that is just my thought process. I am just putting it out there to tease it out, if you like. I am not saying one way or the other that I think that that is the right way to go. I am not, so rest easy about that. I was just teasing out the issue.

Mr Mee: We have now put out quite a large set of documents, but, thinking ahead, some of the codes that go out in future could be very small indeed. For example, there could be something on under-18s or children, or it may be that we take a peek at one section of a code and amend a sentence in it and consult on that. We have to think it out, but, thinking ahead, I do not necessarily see us putting out

reams of codes all the time. It may be that some issue comes up that we look at and decide either to put it in the code or update or to amend one of the codes. That could mean a sentence or two. That is another thought behind its not being in regulation at the moment.

Mr Frew: There is a balance to be struck between agility, catering to the needs of the industry and, of course, gambling safeguards. It is about making sure that we have got the balance right.

Mr Allen: I have two points. I have not considered the first, as Paul has just raised it. This may affect the Department's agility, but any draft code could be approved by resolution of the Assembly, rather than through regulations. However, that may not provide the agility that is necessary to make small amendments to any code.

Apologies if I have missed this point in previous briefings, but will you clarify when the consultation on the draft code will be live?

Ms Campbell: The consultation is live. It may not be on our website yet. Last week, we provided the list of consultees. We have already alerted a broad range of people, including those in the industry and in health. Ciarán can probably rhyme them off a lot quicker than I can, but it is a broad range of people.

Mr Allen: The reason why I ask that is that I have been contacted by people in the industry who are saying that they have not seen or been made aware of the consultation.

Ms Campbell: Oh.

Mr Mee: Some of those in the industry we send out to are the broad representative umbrella bodies. We look to them to cascade the information. If you look at the industry, you will see that we have covered it with a very broad brush. Again, the consultation should be on our website in the next day or so. If anyone has not got it and wishes to get a copy, we would be happy for them to contact us and we will issue it.

Mr Allen: I appreciate that. My comment — I am not asking for an answer to it — is that that is very poor, given the scale of the draft code. Can we get a copy of the consultation link when it is available on the website, please?

Ms Campbell: Certainly. One of the reasons why we cannot write to all operators is that we hold the names and addresses of only those operators that we license, which is a very small section, but I take your point.

Mr Allen: I appreciate that, Martina. I am not asking for every person to be written to. What concerned me was that, when they went to the consultations page of the Department's website to look for the consultation, it was not there. Naturally, that caused a great deal of concern in the wider sector. They wanted to provide their views on a number of areas that are important to the Department in getting this right, and the consultation was not available.

Ms Campbell: I take your point fully. The reason why the consultation is not on the website is because it takes a few days. We do not do that; another branch does it. It takes a few days to get through the formatting and so on, but I take your point entirely on that.

The Chairperson (Ms P Bradley): For clarification for anybody who might be listening, am I correct in saying that it is a six-week consultation process?

Ms Campbell: Yes.

The Chairperson (Ms P Bradley): That is to let people know that it will not be long coming around.

Ms Campbell: The consultation ends on 25 February.

The Chairperson (Ms P Bradley): I remember seeing it in our papers last week or the week before. That is fine.

Ms Armstrong: Thank you, Martina and Ciarán. Paul brought up whether the codes are better as a code or as regulations. I will ask this to satisfy myself. The Bill states:

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

If, for instance, a council is reviewing someone's licence and complaints have been made that have shown that someone has not complied with a code, can the council legally use that evidence to take away a licence? I know that that is admissible in evidence, but, because it is not regulation but a code and an interpretation, could that be used as evidence to take away the licence, or would it be open to a judicial review?

Ms Campbell: No. We believe that it would be taken into account by a court or the council that issues a licence.

Ms Armstrong: The Bill says:

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

However, failure to comply can result in that person's licence being taken away. Is that OK? Are you satisfied that that works?

Ms Campbell: Yes. Ciarán might want to comment further, but we are satisfied that, where there are any complaints about the operator, they will most likely come to the Department in the first instance. We will then liaise with the court or the council, whichever of those two issued the licence. They should be aware of any complaints or ongoing allegations about an operator, and they should then, I imagine, take those into account. Ciarán might want to add to that.

Mr Mee: The codes are a tool to help them make a judgement. As Martina mentioned, there is the fitness of a person to hold a licence, certificate or permit to consider. The issuing body can make a judgement, and the code is a tool to help them to make a judgement about fitness. Fitness is already in the terms of assessments that courts, councils and so on must make before issuing a licence, deciding whether to revoke a licence or refusing to renew it.

Ms Armstrong: I want to ask about the complaints and where they are held when a council is making a decision about a licence. For instance, I am in Ards and North Down Borough Council and a complaint has been made against me. I may be applying for a licence, but the complaint was made against me regarding a premises that I have in Enniskillen. How much of that complaint will be shared from Fermanagh and Omagh District Council across to Ards and North Down Borough Council so that it can facilitate its decision-making about me, who is a licence holder operating across a number of council areas?

Ms Campbell: The operator, regardless of where they live, would apply to the court or council in which the premises is based, so any information about those premises would be with the council. We will have to think about complaints about the operator's premises when they are in other council areas, Kellie.

Ms Armstrong: I am thinking about data sharing in that, because it is important that, if there is somebody who has been a bit naughty in one area and has complaints against them, they could say, "Stuff that. I will shift to another area". It is just to make sure that the complaints carry across and that all the councils are aware of them. Can you have a look at that?

Ms Campbell: We will have a look at it.

Ms Armstrong: I want to be sure about data sharing, because the Department is the pivotal contact in all this. It depends on where that information is held.

Finally, the Department can revise and revoke the code of practice, and, of course, you can update it. This question goes back to the consultation again. How can we be absolutely certain that, in future, when there are revisions or something is being revoked, there is fair consultation? I am thinking about the people who are affected by gambling and about the industry itself. The industry has a vested

interest in replying to consultations, but charitable organisations that support family members who have lost someone as a result of gambling addiction are not massive professional organisations. How can the Department ensure that they are getting enough consultation responses to have a balance?

Ms Campbell: We have sent the code to a number of organisations that deal with people who are affected. We have also sent it to the Institute of Public Health and the Public Health Agency etc. We expect government-type agencies to at least cover the interests of those who are affected.

We can think further about how we would attempt to get the views of others. In normal circumstances, you would probably have some sort of consultation event, which would pick up those views a bit better. That is something that we will take on board when we come to the next stage of the consultation. This stage is really a pre-design, to use the modern term. We called it a consultation, but it is really a pre-design engagement with stakeholders, with a view to doing a more formal and detailed consultation that, as I said, would likely include a couple of events where we would pick up a broader range of views, although maybe not as formally as we would in a written response.

Ms Armstrong: I ask because we talked about the location of some of the problem areas. Those groups would involve anything from Retail NI to the Northern Ireland Food and Drink Association. We are going through the Charities Bill at the moment, so there is the list of all the charities to consider. They do not all deal with gambling, but there will at least be a list that includes those that do.

Sometimes I find that consultee lists get a bit stale. When revisions are happening in the future, an update should be done by the Department. I have found in the past, not necessarily with Communities but with other Departments, that the list is not refreshed, and the Department has to proactively look for interest. It is always assumed that others will find the consultee list and add themselves or get themselves added to it. It would be really appreciated if you could look at that.

Ms Campbell: I agree with you on the staleness of the consultee lists, and sometimes they are not targeted. Certainly, we will look at that.

Ms Armstrong: Thank you.

The Chairperson (Ms P Bradley): Thank you members. We will move on, if no one else wants to raise an issue on clause 15.

We will move on to clause 16, "Short title and commencement". Have members anything further that they want to add? We had a bit of chat last week — I do not remember whether it was in closed session — about the commencement of clause 7. Some of us feel that that is one of the more important clauses in the Bill, as it deals with young people. Other than that, I do not think that there is anything. Have members anything that they want to bring up on the short title or commencement? Is there anything further from you, Martina?

Ms Campbell: No, Chair.

The Chairperson (Ms P Bradley): We will move on to the schedule. Martina, will you highlight any key points in the responses on the issues that are raised in the schedule?

Ms Campbell: I will ask Ciarán to take you through the schedule.

Mr Mee: Right. Bear with me.

The Chairperson (Ms P Bradley): It does not sound good, Ciarán, when you start shuffling and saying, "Bear with me." Are we in for a long session now? *[Laughter.]*

Mr Mee: I am shuffling one paper to another.

I went over this before. The schedule should be read in conjunction with clauses 8 and 11. The problem at the moment is that, under the 1985 Order, a person has to buy a product or service in order to qualify for entry into a non-skill prize competition. It is not generally considered to be a free draw. Instead, it constitutes an illegal lottery. Article 132 contains some fairly stiff penalties for running illegal lotteries.

Proposed new schedule 15A attempts to define in law what does and does not constitute payment to participate. In that way, we can prevent certain types of lotteries and draws but allow others for the first time. Under "Meaning of payment", which comprises paragraphs 2 to 4, we want to make it clear that, for an event to constitute a lottery, "payment" means, as paragraph 2 states:

- "(a) paying money,*
- (b) transferring money's worth",*

including the cost of entry to a draw or adding that to the normal purchase cost of a product or service. Under paragraph 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, buying that product still counts as paying to participate. It is, therefore, still a lottery and is illegal.

In paragraph 5, "Stamps, telephone calls, etc", we are saying that the normal or ordinary cost of a phone call, postage or other communication will not count as payment to participate and will, therefore, be allowed for those kinds of draws.

In paragraphs 6 and 7, "Payment to discover whether prize won" and "Payment to claim prize", the intention, again, 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, that is a payment to participate. That is, therefore, a lottery under clauses 8 to 11.

In paragraph 8, we are trying to prevent people being automatically entered into commercial prize draws or competitions. Under that paragraph, we want people to have a means of indicating whether they want to be entered into a particular draw. That is a distinction between automatic qualification and automatic entry.

Paragraph 9, "Power to make regulations", gives the Department a new power to make regulations on any kinds of new, novel, contentious or highly unusual draws or competitions.

The schedule is also covered in the explanatory and financial memorandum. If you wish me to go through that, I will.

The Chairperson (Ms P Bradley): Members, do you want Ciarán to go through the memorandum?

Mr Frew: Yes. It is a pretty meaty amendment to the memorandum, so it would not do any harm to go through it, Ciarán.

Mr Mee: Right, OK. On the explanatory and financial memorandum, I will take you back to clauses 8 and 11. On the sections in the memorandum on those clauses, we have added a new sentence to guide the reader to proposed new schedule 15A, because it was not sufficiently clear in the original explanatory and financial memorandum how important that proposed new schedule is. At the end of page 7, on clause 8, the memorandum states:

"New Schedule 15A sets out both the meaning of payment to enter under the 1985 Order as well as the forms of payment or expenses to participate in prize competition arrangements that are not included in Article 131."

There is a similar sentence at the top of page 9, referring to article 168, which is amended by clause 11:

"New Schedule 15A sets out both the meaning of payment under the 1985 Order as well as the forms of payment or expenses to participate in prize competitions that are not included in Article 168."

At the end of the explanatory and financial memorandum, there is a section titled, "Schedule 15A (Lotteries and Competitions: Requirements to Pay in Order to Participate)". The paragraph at the top of page 12 is probably the most important of the lot, because it states:

"New Schedule 15A specifies that references to paying in order to participate in new Articles 131(2) and 168(2A) exclude 'normal rate' expenses of sending a letter ... or using any other method of communication to participate in the arrangement."

It continues:

"The normal purchase costs of paying for goods ... or services ... are also excluded from the meaning of payment under new Articles 131(2) and 168(2A)."

Broadly, the revised EFM is trying to make that clear. It goes further on the payment for goods, essentially setting out more clearly what does and does not constitute a payment to participate. We have used examples such as newspaper, chocolate bar, hospitality and financial services and have worked them as best we can into the framework of an EFM.

The Chairperson (Ms P Bradley): Do Members want to highlight anything?

Mr Frew: Again, that is a meaty amendment. I cannot recall whether amendments to an EFM have to be brought to the House, or can you do that on pat?

Ms Armstrong: The EFM is updated at every stage.

Mr Frew: Sorry. Can you hear me? Can you update the EFM, or do you have to go through the Assembly?

Ms Campbell: As I understand the process, the OLC clears the revised EFM. At the next scheduled stage, the Bill and any tabled amendments are published on the Assembly website, and members will get a copy of any revisions made. Technically, it goes to the Chamber.

Mr Frew: We do not vote on the amended EFM, however, do we?

Ms Campbell: No. To my knowledge, you do not vote on the EFM, because it is explanatory. The EFM is an interpretation.

Mr Mee: It is not normally part of the Bill, but it goes up on the Assembly website.

Mr Frew: OK. Thank you. Again, I get that you have to stick within the parameters of how an EFM should read. The EFM is still written in regulatory language. Although someone learned and trained can pick up the EFM, an ordinary bank account holder on the street, and probably your average bank manager or head of a branch might not necessarily do so, or read it right. That is probably where the information leaflet will be so important.

Ms Campbell: It will.

Mr Mee: It will, Paul.

Mr Frew: I thank you for listening to me and the Committee and for putting that pretty big change into the EFM. I welcome it.

Ms Campbell: Thank you.

The Chairperson (Ms P Bradley): No other members have anything further to add. Our deliberations are therefore completed.

You will be back with us later when we do the formal clause-by clause consideration, but, in the meantime, thank you, Martina and Ciarán.

Ms Campbell: Thank you very much, Chair.