

COURTS AND CIVIL LAW (MISCELLANEOUS PROVISIONS) BILL 2017

**Regulatory Impact Assessments in relation to
Parts 2, 3, 4, 5, 6, 13 and 14 (Head 106 and Head 107)**

Summary of Regulatory Impact Analysis (RIA)			
Department/Office: Department of Justice and Equality		Title of Legislation: Courts and Civil Law (Miscellaneous Provisions) Bill 2017 – Part 2 – Court and Court Officers	
Stage: Head of Bill published.		Date: March 2017	
Related Publications:			
Available to view or download at: http://www.justice.ie			
Contact for enquiries: Patrick McHale		Telephone: 479 02 82	
OPTIONS			
	OPTION	BENEFITS	IMPACTS
1	Do nothing	None	Courts Service would not be able to use its ICT systems to full effect and efficiency
2	Enact Heads of Bill as proposed	Courts Service could achieve efficiencies and optimise potential of ICT systems	Would allow Court Office to improve service delivery

POLICY CONTEXT

The Court and Court Officers Act 2009 made provision for the establishment by the Courts Service of Combined Court Offices. Since the commencement of the 2009 Act, District and Circuit Court Offices have been combined throughout the country. Among the benefits identified by the establishment of combined court offices are the maximisation of available resources and delivery of economies of scale in the context of a 16% reduction in staffing resources during the recession, business process improvements which ensured that additional court sittings and ancillary work were fully supported and the extension of staff knowledge across Circuit and District Court Offices.

Among the key priorities identified in the Courts Service Strategic Plan 2014 -2017 was the maximisation of the use of technology in the provision of services through the introduction of more e-filing and e-payment options, together with improved on-line service options. The Courts Service is developing such services through its Courts Service On-Line (CSOL) system. An on-line small claims system in respect of domestic claims is in operation as well as an on- line facility in respect of Personal

Insolvency proceedings for filings by the Insolvency Service. An e-licensing system has been developed and it is intended to roll the system out by the end of 2017.

STATEMENT OF OBJECTIVES

The key objectives of these Heads are to enable the Courts Service to improve its delivery of services in the context of reduced staff numbers and its Courts Service On-Line developments. This will be especially facilitated by the ability to establishment centralised offices for the delivery of particular categories of civil business where it is considered appropriate. In addition, the enactment of these Heads will allow for the delivery of more on-line services, thereby freeing up staff to support additional court sitting and ancillary matters.

ANALYSIS OF THE COSTS AND BENEFITS

The costs incurred in establishing centralised offices and in the development of on-line systems and other technological improvements will be met from Courts Service resources insofar as possible. However, as demands for additional services increase over time it may be necessary to seek additional funding and resources from the Exchequer.

IMPACTS OF THE HEADS OF BILL AS PROPOSED

The enactment of the Heads of Bill contained in Part 2 of the draft will provide greater flexibility to the Courts Service in meeting its service obligations.

For example, a key area for the development of a centralised service on-line is the business of uncontested debt claims. Currently every office in every first instance jurisdiction deals with debt claims. The enactment of the Head allowing for the filing on-line of a statement of truth as an alternative to an affidavit or statutory declaration will allow for such business to be dealt with fully on-line.

The enactment of these Heads will also allow the Courts Service to provide for an on-line search facility in respect of registered judgments.

CONSULTATION

In the context of the development of a Debt Claims On Line facility, the Courts Service consulted the Law Society and FLAC. The response received was for the most part very favourable.

REVIEW

The effectiveness of any e-filing solutions will be kept under regular reviews and enhanced as resources allow. Centralised services will also be kept under review and appropriate changes made to enhance the delivery of services.

Department/Office: Department of Justice and Equality	Title of Legislation: Courts and Civil Law (Miscellaneous Provisions) Bill 2017 PART 3 - AMENDMENT OF THE BANKRUPTCY ACT 1988		
Stage: Heads of Bill	Date: March 2017		
Related publications:			
Available to view or download at: www.justice.ie			
Contact for enquiries: Madeleine Reid Civil Law Reform Division	Telephone: 01 479 0217		
<p>What are the policy objectives being pursued?</p> <ul style="list-style-type: none"> To continue the reform and modernisation of bankruptcy law. <p>What policy options have been considered?</p> <ol style="list-style-type: none"> Do nothing Draft a stand-alone Bankruptcy (Amendment) Bill. Insert provisions into the proposed Civil Law (Miscellaneous Provisions) Bill 2017. <p>Preferred Option:</p> <p>Option 3 above is the preferred option as it can achieve the objectives of the legislation and within the shortest timeframe.</p>			
Option	Costs	Benefits	Impacts
1. Do nothing	Cannot be quantified.	No benefits	Due to an increase in the number of applications for bankruptcy, a number of deficiencies in the current system have been identified.
2. Draft a stand-alone Bankruptcy (Amendment) Bill.	Cannot be quantified.	Amend identified deficiencies in the law.	The law would be updated.
3. Insert provisions into the proposed Civil Law (Miscellaneous Provisions) Bill 2017.	Cannot be quantified.	Amend identified deficiencies in the law in the shortest possible timeframe.	The law would be updated more quickly than if there were a separate Bill.

1. POLICY CONTEXT AND OBJECTIVES

This Part of the Bill will provide clarity to stakeholders (Official Assignee (OA), the courts, and debtors) on bankruptcy law and procedures. It flows from earlier reforms to bankruptcy legislation and the resulting increase in the number of applications for bankruptcy due to the shorter bankruptcy terms. The proposed amendments, *inter alia*, clarify the nature of information to be supplied to the OA by the debtor, streamline the administration of the winding up of estates, and introduce statutory recognition and enforcement of Income Payment Agreements to secure income contributions from debtors.

2. IDENTIFICATION OF OPTIONS

The options identified are:

- Option 1 Do nothing.
- Option 2 Draft a stand-alone Bankruptcy (Amendment) Bill.
- Option 3 Insert provisions into proposed Civil Law (Miscellaneous Provisions) Bill 2017.

3. IDENTIFICATION OF COSTS AND BENEFITS

Option 1 Do nothing

Costs/benefits/other impacts:

Costs can't be identified. However, the Government could incur public criticism if identified shortfalls in personal insolvency legislation were not addressed.

There are no benefits arising.

Failure to complement the significant earlier reforms of bankruptcy legislation would hinder the work of the Official Assignee in the context of a shorter bankruptcy term and a significantly increased caseload.

Option 2 Draft a stand-alone Bankruptcy (Amendment) Bill.

Costs/benefits/other impacts:

Costs can't be identified. Benefits would include a modernised, streamlined bankruptcy system.

Option 3 Insert provisions into proposed Civil Law (Miscellaneous Provisions) Bill 2017.

Costs/benefits/other impacts:

Costs can't be identified. This approach would ensure a modernised, streamlined bankruptcy system in the shortest possible timeframe.

4. IMPACTS

The legislation would have a positive impact on the bankruptcy process and continue the reforms already effected.

No impact is envisaged on national competitiveness, on economic markets, including consumer and competition impacts, on the environment or on North-South or East-West relations.

5. CONSULTATION

The Department has consulted with the Insolvency Service of Ireland (which is in ongoing consultations with stakeholders) and the Official Assignee.

6. ENFORCEMENT AND COMPLIANCE

There are no compliance burdens arising. The amendments will facilitate the Official Assignee in processing applications for bankruptcy; ensure clarity and consistency in respect of the obligations of debtors in the bankruptcy process; and secure income contributions from debtors.

7. REVIEW

The operation of the Bankruptcy Acts will continue to be kept under review by the Department of Justice and Equality, in consultation with relevant stakeholders.

Department/Office: Department of Justice and Equality	Title of Legislation: Courts and Civil Law (Miscellaneous Provisions) Bill 2017 PART 4 - AMENDMENT OF THE PERSONAL INSOLVENCY ACT 2012		
Stage: Heads of Bill	Date: March 2017		
Related publications:			
Available to view or download at: www.justice.ie			
Contact for enquiries: Madeleine Reid Civil Law Reform Division	Telephone: 01 479 0217		
<p>What are the policy objectives being pursued?</p> <ul style="list-style-type: none"> To continue the reform and of personal insolvency law. <p>What policy options have been considered?</p> <ol style="list-style-type: none"> Do nothing Draft a stand-alone Personal Insolvency (Amendment) Bill. Insert provisions into the proposed Civil Law (Miscellaneous Provisions) Bill 2017. <p>Preferred Option:</p> <p>Option 3 above is the preferred option as it can achieve the objectives of the legislation and within the shortest timeframe.</p>			
Option	Costs	Benefits	Impacts
1.Do nothing	Cannot be quantified.	No benefits	Due to on-going review of personal insolvency legislation, a number of necessary amendments have been identified to clarify the law, enhance the role of the ISI, and clarify the role and obligations of PIPs.
2.Draft a stand-alone Personal Insolvency (Amendment) Bill.	Cannot be quantified.	Amend identified deficiencies in the law.	The law would be updated.
3. Insert provisions into the proposed Civil Law (Miscellaneous Provisions) Bill 2017.	Cannot be quantified.	Amend identified deficiencies in the law in the shortest possible timeframe.	The law would be updated more quickly than if there were a separate Bill.

1. POLICY CONTEXT AND OBJECTIVES

This Part of the Bill will provide clarity to stakeholders (ISI, the courts, PIPs and debtors) on personal insolvency law and procedures. It flows from earlier reforms to personal insolvency and bankruptcy legislation, as well as a process of on-going review. The proposed amendments, *inter alia*, clarify the ISI's verification role in respect of applications for insolvency arrangements,

2. IDENTIFICATION OF OPTIONS

The options identified are:

Option 1 Do nothing.

Option 2 Draft a stand-alone Personal Insolvency (Amendment) Bill.

Option 3 Insert provisions into proposed Civil Law (Miscellaneous Provisions) Bill 2017.

3. IDENTIFICATION OF COSTS AND BENEFITS

Option 1 Do nothing

Costs/benefits/other impacts:

Costs can't be identified. However, the Government could incur public criticism if identified shortfalls in personal insolvency legislation were not addressed.

There are no benefits arising.

Failure to complement significant earlier reforms of personal insolvency legislation undermine its effectiveness.

Option 2 Draft a stand-alone Bankruptcy (Amendment) Bill.

Costs/benefits/other impacts:

Costs can't be identified. Benefits would include a more effective personal insolvency system.

Option 3 Insert provisions into proposed Civil Law (Miscellaneous Provisions) Bill 2017.

Costs/benefits/other impacts:

Costs can't be identified. This approach would ensure an updated personal insolvency system in the shortest possible timeframe.

4. IMPACTS

The legislation would have a positive impact on the personal insolvency process and continue the reforms already effected.

No impact is envisaged on national competitiveness, on economic markets, including consumer and competition impacts, on the environment or on North-South or East-West relations.

5. CONSULTATION

The Department has consulted with the Insolvency Service of Ireland (which is in ongoing consultations with stakeholders).

6. ENFORCEMENT AND COMPLIANCE

There are no compliance burdens arising. The amendments will ensure clarity in relation to ISI processing of applications for personal insolvency, clarify the role of PIPs, and streamline the application process.

7. REVIEW

The operation of the personal insolvency legislation will continue to be kept under review by the Department of Justice and Equality, in consultation with relevant stakeholders.

Summary of Regulatory Impact Analysis (RIA)			
Department/Office: Justice and Equality		Title of Legislation: Civil Law (Miscellaneous Provisions) Bill 2017 – Part 5: Prevention of Benefit from Homicide	
Stage: Ready for Publication		Date: May 2017	
Related Publications:			
Available to view or download at: www.justice.ie			
Contact for enquiries: Michael Holohan Civil Law Reform Division		Telephone: 4790200 Email: mholohan@justice.ie	
<p>What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the option below and indicate whether a preferred option has been identified.</p> <p>1. Do nothing.</p> <p>2. Prepare Bill to give effect to Law Reform Commission recommendations for comprehensive legislative reform to implement the general principle that a person should be prevented from benefitting from his or her wrongdoing, especially an act of homicide, and that no cause of action should arise from one's own wrongful act.</p>			
OPTIONS			
	COSTS	BENEFITS	IMPACTS
1	None	None	Criticism will continue regarding the operation of present legislation.
2	None	Bring clarity to the principle that a person should be prevented from benefitting from his or her wrongdoing, especially an act of homicide	Will give legislative certainty to the concept of prevention of benefit from homicide.

INTRODUCTION

Part 5 of the Civil Law (Miscellaneous Provisions) Bill 2016 dealing with Prevention of Benefit from Homicide has been developed following the publication, in July 2015, of the Law Reform Commission Report on Prevention of Benefit from Homicide. .

A – POLICY CONTEXT

Section 120 provides that a person who is guilty of the murder, attempted murder or manslaughter of another person, such as his or her spouse, is prohibited from taking any share in the estate of that other person.

The scope and application of the rule in section 120 has given rise to difficulties in practice, including in the decision of the High Court (Laffoy J) in *Cawley v Lillis*, which concerned property held in a joint tenancy. Because property held in a joint tenancy does not form part of the estate of a deceased person, including a homicide victim, the rule in section 120 does not apply in such a case. In *Cawley*, Laffoy J therefore applied general principles in determining the outcome of the case, and added that this area of the law should be reviewed.

A Private Members Bill on the matter was promulgated in the Seanad in 2015 prior to the publication of the LRC Report on the issue. The Government accepted the intent behind the PMB. Following discussion at Second Stage in the Seanad, the PMB was not progressed on the understanding that the Government would bring forward its own proposals following publication of the LRC Report.

B – STATEMENT OF OBJECTIVES

Part 5 of the Civil Law (Miscellaneous Provisions) Bill 2016 is designed to bring clarity to the legislative objective of ensuring that that a person who is guilty of the murder, attempted murder or manslaughter of another person, such as his or her spouse, is prohibited from taking any share in the estate of that other person.

C – IDENTIFICATION AND DESCRIPTION OF OPTIONS

Option 1: Do nothing. The “do nothing” option is primarily being included for benchmarking purposes.

Option 2: Bring forward comprehensive legislative reform to implement the general principle that a person should be prevented from benefitting from his or her wrongdoing, especially an act of homicide, and that no cause of action should arise from one’s own wrongful act.

D – ANALYSIS OF COSTS AND BENEFITS OF EACH OPTION

Option 1 entails no direct costs but has no benefits.

Option 2 entails no direct costs but provide a clear statutory framework in relation to the general principle regarding benefit from homicide.

E – IMPACTS OF THE BILL AS PROPOSED

The Bill is not expected to have any appreciable impact on north-south and east-west relations, employment, gender equality, people with disabilities or rural communities.

Consumer benefits

Enactment of the provisions of Part 5 of the Bill provide a clear statutory framework in relation to prevention of benefits from homicide thus benefitting consumers.

F – CONSULTATION

The development of the Part 5 of the Bill follows the publication of a Consultation Paper in 2014 and Report in 2015 by the Law Reform Commission that reviewed the operation of section 120 of the Succession Act 1965. That section provides that a person who is guilty of the murder, attempted murder or manslaughter of another person, such as his or her spouse, be prohibited from taking any share in the estate of that other person.

The scope and application of the rule in section 120 has given rise to difficulties in practice, including in the decision of the High Court (Laffoy J) in *Cawley v Lillis*, 4 which concerned property held in a joint tenancy. Because property held in a joint tenancy does not form part of the estate of a deceased person, including a homicide victim, the rule in section 120 does not apply in such a case. In *Cawley*, Laffoy J therefore applied general principles in determining the outcome of the case, and added that this area of the law should be reviewed.

Following publication of the Consultation Paper, the LRC received a number of submissions and engaged in consultation with various bodies. The Report, issued by the LRC in 2015, made 24 recommendations for change in this area and included a draft Bill.

The provisions of Part 5 of the Civil Law (Miscellaneous Provisions) Bill 2016 are grounded in the recommendations made by the LRC in its Report. In addition, the Department has consulted with the Office of the Attorney General on the proposed provisions.

G – ENFORCEMENT AND COMPLIANCE

Overall responsibility for the operation of the provisions of Part 5 of the Civil Liability (Amendment) Bill 2016 will rest with the Department of Justice and Equality.

F – REVIEW

The operation of provisions of Part 5 of the Civil Liability (Amendment) Bill 2016 will be kept under review by the Department.

Summary of Regulatory Impact Analysis (RIA)			
Department/Office: Department of Justice and Equality		Title of Legislation: Courts and Civil Law (Miscellaneous Provisions) Bill 2017 - Part 6 - Amendment of Civil Liability and Courts Act 2004	
Stage: Head of Bill published.		Date: March 2017	
Related Publications:			
Available to view or download at: http://www.justice.ie			
Contact for enquiries: Patrick McHale		Telephone: 479 02 82	
<p>What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the options below and indicate whether a preferred option has been identified.</p> <p>1. Do nothing</p> <p>2. Proceed with amendment to Part 3, Chapter 1 of the Civil Liability and Courts Act 2004</p> <p>Preferred Option is option 2</p>			
OPTIONS			
	COSTS	BENEFITS	IMPACTS
1	None	None	Courts Service would not maximise the benefit of the Dormant Funds of Court
2	None	Courts Service would have the use of extra financial resources for the purposes of defraying the costs of providing, managing and maintaining court buildings and ICT facilities for courts, court offices and the Courts Service.	None.

POLICY CONTEXT

Section 34 of the Civil Liability and Courts Act 2004 (contained in Part 3, Chapter 1 of that Act) provided for the realisation by the Accountant of the Courts of Justice, on the order of the Chief Justice, from time to time, of the investments of the dormant funds of the funds of suitors of the High Court. Section 35 of the Act provides that, from time to time, the Chief Justice may direct the payment to the Exchequer out of those funds of sums not exceeding 97.5% of the aggregate of the amounts in the form

of money standing in the dormant account. Section 35 further provides that the sums paid to the Exchequer may be applied from time to time, by the Minister for Justice and Equality, with the consent of the Minister for Finance, for the purpose of defraying the costs of providing, managing, and maintaining court buildings under section 5(d) of the Courts Service Act 1998.

STATEMENT OF OBJECTIVES

The proposed amendments to Sections 33, 35 and 38 and the insertion of a new section 34A are intended to provide that dormant funds of the Circuit Court and District Court may also be realised on the same basis as dormant funds of the funds of suitors of the High Court. It has also been considered appropriate to broaden the uses to which such funds may be put. It is proposed to amend section 35 to provide that the sums paid to the Exchequer may be applied from time to time by the Minister, with the consent of the Minister for Finance, for the purposes of defraying the costs of providing, managing and maintaining (a) court buildings under section 5(d) of the Courts Service Act 1998, and (b) information and communications technology facilities for courts, court offices and the Courts Service.

ANALYSIS OF THE COSTS AND BENEFITS OF THE PROPOSAL

There is no cost to the Exchequer. The proposal will generate increased resources for the Courts Service to enable it to enhance its ICT systems in the context of the continuing development of its Courts Service On Line (CSOL) systems and increasing demand for IT solutions in relation to a number of legislative initiatives.

IMPACTS OF THE HEAD OF BILL AS PROPOSED

Section 36 of the Civil Liability and Courts Act 2004 provides for full indemnity from the Central Fund for suitors where the funds of suitors are not sufficient to enable suitors to be fully indemnified.

The operation of Chapter 1 of Part 6 of the Act has not given rise to any issues to date and no adverse impacts are anticipated.

CONSULTATION

As the amendments to the 2004 Act extend the provisions of that Act to the Circuit Court and District Court, it was not considered necessary to consult outside the Courts Service with regard to the proposed changes.

REVIEW

The effectiveness of the legislation when enacted and commenced will be reviewed from time to time.

Summary of Regulatory Impact Analysis (RIA)			
Department/Office: Justice and Equality		Title of Legislation: Courts and Civil Law (Miscellaneous Provisions) Bill 2017 Part 13 – Gaming, raffles and lotteries	
Stage: General Scheme of Bill published.		Date: May 2017	
Related Publications:			
Available to view or download at: http://www.justice.ie			
Contact for enquiries: Brendan Mac Namara		Telephone: 476 86 07	
What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the options below and indicate whether a preferred option has been identified. 1. Do nothing. 2. Amend the Gaming and Lotteries Act 1956 and Totalisator Act 1929 in certain respects. 3. Replace all existing gambling legislation with an Act dealing with gambling regulation Preferred Option: 2			
OPTIONS			
No.	COSTS	BENEFITS	IMPACTS
1	No explicit costs.	No benefits.	No improvement in the existing system which is now considered out-of-date.
2	Partial amending legislation. Continuation of outdated regulation of gambling sector.	Existing anomalies in current legislation corrected.	All gambling by under 18s now prohibited. Improvements in licensing and permit system for gaming, raffles and lotteries
3	Not determined but likely to be sizeable in terms of financial and staff resources.	Full reform of gambling control to modernise system and potentially increase revenue to the State	Detailed research and analysis required to determine impacts, including costs of a new regulatory approach.

POLICY CONTEXT

The General Scheme of the Gambling Control Bill was published in July 2013 following approval by the Government and is currently in drafting by the Office of the

Parliamentary Counsel. The Bill, as proposed, will update all existing laws on the regulation of gambling, including betting and gaming but excluding the National Lottery. It will provide for the licensing of all forms of on-line gambling.

Pending the bringing forward of the main Bill, which is a major and complex undertaking, likely to take time and involve significant resources, a number of measures were identified for inclusion in the Scheme of the Courts and Civil Law Miscellaneous Provisions Bill.

This initial approach will be augmented by the completion of the more complex work on the main Bill for Government approval and publication in due course.

STATEMENT OF OBJECTIVES

It is proposed to amend the Gaming and Lotteries Act 1956 as follows:

- (a) by clarifying the application process and conditions required for promoters of gaming, raffles and lotteries, including at various permitted locations, events, etc.,
- (b) requiring that a charitable beneficiary of a raffle or lottery be registered with the Charities Regulator,
- (c) that the charitable and philanthropic purposes be clearly stated in the promoters application,
- (d) setting out the distribution ratios for prizes, beneficiary and promoter expenses for those raffles and lotteries held under District Court licence (€30,000 limit) – currently only the promoter expenses, up to 40% of income, is specified,
- (e) The stakes and prizes permitted by the Gaming and Lotteries Act 1956 are adjusted upwards in a realistic manner, with maximum rates of stakes and prize money (currently 3c and 50c respectively) permitted as follows:
 - (i) Licensed gaming machines (slots, etc.) to allow for a stake of up to €10 and a prize of up to €750,
 - (ii) Certain gaming and lottery activities to allow for a stake of up to €10 and a prize of up to €3,000 where the promoter of the gaming may personally benefit,
 - (iii) Certain gaming and lottery activities to allow for a stake of up to €10 and a prize of up to €5,000 for charitable or philanthropic purposes.
- (f) standardising the age limit for participating in gaming and lottery activities at 18 years of age. Currently, some activities require an 18 year limit, a 16 year limit, while betting on the Tote has no age limit. (Both the National Lottery Act 2013 and Betting Act 1931 provide for an age limit of 18 for engaging in the their relevant gambling activities). The Totalisator Act 1929 will be amended with the insertion of an age limit of 18 years for betting with the Tote.

IDENTIFICATION OF POLICY OPTIONS

Option 1: Do nothing. The “do nothing” option is primarily being included for benchmarking purposes.

Option 2: To amend existing legislation and provide for modernisation of the Gaming and Lotteries Act 1956 to provide greater clarity and certainty for all promoters and participants involved in gaming , raffles and lotteries covered under the Act and assist in combatting any potential for fraudulent behaviour. A new Part to the 1956 Act is proposed, to bring clarity to the area of raffles.

Option 3: To repeal all extant gambling legislation and enact new legislation in order to introduce a single regulatory regime in this area. Under this option the Minister for Justice and Equality would take on the primary regulatory function for gambling, with an appropriate regulatory (licensing and inspection) structure to be established.

ANALYSIS OF THE COSTS AND BENEFITS OF EACH OPTION

Option 1: There would be no explicit costs associated with this option. However, incidental costs would arise from the continuation of the current system. These costs could arise from:

- (a) the continuation of a system where persons under 18 years of age were able to gamble,
- (b) the lack of enforcement of legislation that is seen as outdated and not fit for purpose, and
- (c) the reputational cost to the State of maintaining a system which compares unfavourably with the practice in other EU Member States.

Option 2: This option would involve the continued existence, for a period of time, of outdated legislation that is contrary to a long-standing objective of reform in relation to the gambling sector. However, this option would be a viable method of introducing immediate changes to remove some existing anomalies and bring a measure of consistency to how gambling by those under 18 years of age is dealt with.

The costs of this option would include:

- (a) a piece-meal process of legislative amendment which would carry a risk of lack of legislative clarity and certainty, and
- (b) the continued operation of a system which has been deemed no longer fit for purpose.

Option 3: This option would have benefits significantly greater than option 2. The replacement of the existing legislation with a unified and up-to-date regulatory structure would represent a significant improvement in the ease of operation of the legislative framework.

The costs of this option have not been determined, but are likely to be sizeable in terms of financial and staff resources.

In any event, given the detailed ongoing review of the General Scheme of the Gambling Control Bill, this is not seen as the best option at this point.

IMPACTS OF THE BILL AS PROPOSED

Part [12] of the General Scheme addresses certain deficiencies with regard to the conduct of gaming and lottery activities regulated under the now outdated Gaming and Lotteries Act 1956. The proposals do not concern the National Lottery or betting activities licensed under the Betting Act 1931. The amendments provide, in the main, for modernisation of the Gaming and Lotteries Act 1956 to provide greater clarity and certainty for all promoters and participants involved and assist in combatting any potential for fraudulent behaviour.

CONSULTATION

The Heads in Part 12 have not been the subject of widespread consultations. The Department of Finance and Tote Ireland were consulted on the proposed changes to the Totalisator Act 1929 and comments from both bodies were taken into consideration.

ENFORCEMENT AND COMPLIANCE

Enforcement of the Gaming and Lotteries Act 1956 will remain the responsibility of An Garda Síochána. In cases where the conditions of a licence/permit are not being complied with, there are provisions in the proposed amendments for a Garda Superintendent to seek a District Court Order either suspending or revoking a licence or permit.

REVIEW

The impact of the proposed amendments will be kept under review, in collaboration with An Garda Síochána, the Courts Service and Revenue.

Summary of Regulatory Impact Analysis (RIA)

Department/Office: Property Services Regulatory Authority (PSRA)	Title of Legislation: General Scheme of a Courts and Civil Law (Miscellaneous Provisions) Bill – Part 14 Amendment of the Property Services (Regulation) Act 2011 (Head 106)
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Stage: Text of Bill	Date: March 2017
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Related Publications:
Property Services (Regulation) Act 2011

Available to view or download at:
<http://www.psr.ie>

Contact for enquiries: Maeve Hogan Telephone: 046 9038821

What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the option below and indicate whether a preferred option has been identified.

1. Do Nothing
2. Introduce legislation

Preferred Option: Introduce legislation

OPTIONS

	COSTS	BENEFITS	IMPACTS
1	No direct cost	<ul style="list-style-type: none"> The provision of an oversight regime as part of a major sanction option affords the Authority the scope to impose specific terms and conditions on a licensee which may include seeking regular reports on the activity of a licensee. A prescribed oversight regime 	<ul style="list-style-type: none"> Where and oversight sanction is imposed, licensees can be actively monitored and supervised as per the terms of the oversight conditions as determined by the Authority. Any breach can be quickly identified and acted upon.

		<p>allows a licensee to operate under strict conditions and objectives including oversight by a professional body. A breach of the terms and conditions prescribed could lead to the revocation of their licence</p>	<ul style="list-style-type: none"> • As an alternative to revoking a licence, Licensees may be required to operate within the specified oversight arrangement. With any breach of the agreement, the Authority could revoke the licence.
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STEP 2: Description of Policy Context and Objectives

Describe policy context and objectives

The Authority seeks to amend the definition of a major sanction to include a provision where the Authority can prescribe as required an oversight provision of the licensee detailing conditions and requirements which the licensee must meet. This may include the appointment for a specified period of an external professional body to report to the Authority on a regular basis providing report documentation relevant to the matter as prescribed. The oversight sanction may also specify duration, specified areas for monitoring, payment of oversight arrangement amongst other matters.

In recommending this amendment, the Authority submits that the range of sanctions currently available needs to be calibrated to a greater extent than is currently available and that a bridge is needed between the imposition of a fine on one hand and revocation/suspension on the other.

STEP 3: Identification and Description of Options

Identify and examine options

The following options were considered:

1. Do nothing

To do nothing would limit the options available to the Authority.

2. Introduce Legislation

The inclusion of an oversight regime as a major sanction, provides a further option, for the Authority to consider it as a stand alone major sanction or in conjunction with another major sanction, which may be imposed by the Authority as an alternative to suspending or revoking a licence. In instances where the Authority considers that revoking a licence is not the optimal or desired outcome, that availability of an oversight regime in conjunction with another major sanction may in some instances be sufficient to impose as a major sanction.

STEP 4: Analysis of Costs, Benefits and Impacts for ALL Options

Conduct a detailed and rigorous analysis of costs, benefits and impacts using multi-criteria analysis and formal cost benefit analysis where possible.

1. Do Nothing

To do nothing would be to fail to calibrate to a greater extent than is now possible the imposition of a fine on one hand and revocation/suspension on the other.

2. Introduce Legislation

The implementation of the amendment will have no direct cost to the Authority.

Conduct a structured open consultation process. Report on who was consulted, the views raised and respond to these where possible.

The Board of the Authority was engaged, briefed, consulted and sanction received to proceed with the amendment. The Board consists of representatives of the two sector representative bodies, Institute of Professional Auctioneers and Valuers (IPAV) and the Society of Chartered Surveyors of Ireland (SCSI). The Board sanctioned this amendment for inclusion in the Civil Miscellaneous Bill.

STEP 6: Enforcement and Compliance

Examine in detail enforcement and compliance issues for ALL options being considered including who will enforce the proposals and the resources necessary for enforcement.

Section 2(1) provided the definition of a major sanction. No additional resources will be required by the Authority to enforce this provision.

STEP 7: Review

Identify mechanisms for review and performance indicators for ALL options. Outline the data sources which will be used to report on these indicators.

The amendment once introduced will be kept under review to ensure that it is meeting its objectives.

STEP 7: Publication

Publish RIA on Departmental website

The Regulatory Impact Analysis will be published on the Authority's website www.psr.ie

Summary of Regulatory Impact Analysis (RIA)

Department/Office: Property Services Regulatory Authority (PSRA)	Title of Legislation: General Scheme of a Courts and Civil Law (Miscellaneous Provisions) Bill – Part 14 Amendment of the Property Services (Regulation) Act 2011 (Head 107)
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Stage: Text of Bill	Date: March 2017
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Related Publications:
Property Services (Regulation) Act 2011

Available to view or download at:
<http://www.psr.ie>

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What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the option below and indicate whether a preferred option has been identified.

1. Do Nothing
2. Introduce legislation

Preferred Option: Introduce legislation

OPTIONS

	COSTS	BENEFITS	IMPACTS
1	No direct cost	<ul style="list-style-type: none"> Placing a cap on the maximum grant payment of €500,000 from the Compensation Fund in relation to claims on the Fund will ensure the Fund is not wiped out following one significant or several large claims submitted for compensation. Resources available in the compensation fund to meet 	<ul style="list-style-type: none"> Funds available to meet all claims submitted Consumer protection maintained for compensation for clients of

		<p>claims submitted by clients following acts of dishonesty by licensees.</p> <ul style="list-style-type: none"> • In exceptional circumstances, on hardship grounds, the Authority may exceed the maximum grant from the Compensation Fund. 	<p>dishonest acts by licensees.</p> <ul style="list-style-type: none"> • The Authority in exceptional cases may consider granting a higher amount than the proposed cap to a client of a licensee on hardship grounds
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STEP 2: Description of Policy Context and Objectives

Describe policy context and objectives

1. The objective of this proposed amendment is to cap the maximum grant from the Compensation Fund at €500,000. **AND**
2. In exceptional circumstances, the Authority may make a grant from the Fund in excess of the cap of €500,000 where not to do so would cause hardship on the client(s).
3. The Property Services Regulatory Authority (PSRA) was established under the Property Service (Regulation) Act, 2011. Section 77 of the Act provides for the establishment and administration of a Compensation Fund with section 78 providing where the Authority is satisfied “that a client of a licensee has sustained a loss as a result of dishonest act on the part of the principal officer, employee or agent or former principal officer, employee or agent of that licensee, arising from the provision of property services by or on behalf of the licensee... the Authority shall make a grant to that client out of the Fund.”
4. The compensation fund is funded by the property services sector and currently stands at approximately €2.7 million. The Fund was established to compensate clients for the dishonest acts of property service providers who include Auctioneers, Estate Agents, Letting and Management Agents.
5. The objective of this proposed amendment is to address the risk of exposure of the Fund to a single or a number of large claims. The impact of which could evaporate the Fund, such that the Authority is not in a position to make future grants from the Fund and therefore afford no consumer protection to the client of the property service providers.

STEP 3: Identification and Description of Options

Identify and examine options

The following options were considered:

3. Do nothing

To do nothing would expose the compensation fund for the potential of being wiped out following one substantial or a small number of large claims on the fund. If the fund was wiped out, it would take considerable time to rebuild the Fund as the cost to the sector licensees.

4. Introduce Legislation

The implementation of the amendment proposed in the Bill will protect the Fund from being depleted. By placing a maximum cap payout of €500,000 from the Fund, ensures that consumers can be afforded the intended protection from acts of dishonesty of property service providers should a claim be made.

The majority of claims on the Fund are expected to be well below the proposed capped value of €500,000 and therefore in such circumstances, claims should be able to be met in full from the Fund. However, the risk and concern is with one substantial claim which could significantly erode the Fund leaving the Authority unable to meet additional claims on the Fund.

STEP 4: Analysis of Costs, Benefits and Impacts for ALL Options

Conduct a detailed and rigorous analysis of costs, benefits and impacts using multi-criteria analysis and formal cost benefit analysis where possible.

3. Do Nothing

To do nothing would expose the Fund to one significant or a small number of large claims which could evaporate the fund such that future claims could not be met from the fund at the time a claim is submitted.

4. Introduce Legislation

The implementation of the amendment will protect the Fund from being evaporated in full. By placing a maximum cap payout of €500,000 from the Fund ensures that consumers can be afforded the intended protection from dishonest property service providers.

The majority of claims on the Fund are expected to be well below the proposed capped value of €500,000 and therefore in such circumstances, claims should be able to be met in full from the Fund. However, the risk and concern is with one substantial claim which could significantly erode the Fund leaving the Authority unable to meet additional claims on the Fund from consumers of licensed property service providers.

Conduct a structured open consultation process. Report on who was consulted, the views raised and respond to these where possible.

The Board of the Authority was engaged, briefed, consulted and sanction received to proceed with the amendment. The Board consists of representatives of the two sector representative bodies, Institute of Professional Auctioneers and Valuers (IPAV) and the Society of Chartered Surveyors of Ireland (SCSI). The Board sanctioned this amendment for inclusion in the Civil Miscellaneous Bill.

STEP 6: Enforcement and Compliance

Examine in detail enforcement and compliance issues for ALL options being considered including who will enforce the proposals and the resources necessary for enforcement.

Section 77(1) of the Property Services (Regulation) Act 2011 provides that the Authority “shall establish, administer and maintain a fund to be known as the Property Services Compensation Fund”. Any amendment to the administration or maintenance of the Fund is vested in the Authority. No additional resources will be required to administer this amendment.

STEP 7: Review

Identify mechanisms for review and performance indicators for ALL options. Outline the data sources which will be used to report on these indicators.

The amendment once introduced will be kept under review to ensure that it is meeting its objectives.

STEP 7: Publication

Publish RIA on Departmental website

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