

Gambling Amendment Bill (No 2)

Government Bill

As reported from the Government
Administration Committee

Commentary

Recommendation

The Government Administration Committee has examined the Gambling Amendment Bill (No 2) and recommends that it be passed with the amendments shown.

Introduction

The Gambling Amendment Bill (No 2) makes several policy amendments and a number of technical amendments to the Gambling Act 2003. This Act is a large, complex, and prescriptive piece of legislation. This brought major reforms to the gambling sector, including a moratorium on casinos, a reduction in the number of class 4 gaming machines and new venues, and a significant shift in focus towards the minimisation of harm associated with gambling. The bill's amendments address a number of issues that have emerged since the Act was passed, with the aim of allowing it to operate as originally intended. The bill has four parts, addressing the following areas in respect of the Act:

- amendments to preliminary provisions

- amendments to provisions relating to classes of gambling and institutions
- amendments to provisions relating to harm prevention and minimisation, enforcement, and other matters
- repeals and other amendments.

This commentary addresses the key issues we considered, and explains the substantive amendments recommended. The recommended technical and minor amendments are not discussed.

Submissions received

We received 168 written submissions on the bill, of which 32 expressed general support for the bill. Many of these suggested additional amendments or commented on specific clauses. Twenty-eight submitters opposed the bill, mainly because they believe that more comprehensive changes to existing legislation are required.

The majority of submissions did not provide specific comments on clauses in the bill, or express support or opposition. They proposed measures that are outside the scope of the bill because they would represent significant changes in policy, which could not be described as allowing the Act to operate as originally intended.

In addition, some proposals by submitters are currently, or could be, the subject of regulations made under the Act. These proposals included reducing maximum gaming machine prizes, regulating gaming machines' spin speed, pre-commitment and player tracking systems, advertising standards, and the accumulation of gaming machine profits. Matters for regulation are kept under constant review by the Department of Internal Affairs. Affected parties must be consulted when new regulations are being considered, and this is the appropriate time for submissions on these issues to be made.

Although a number of submissions were outside the strict scope of this bill, we tried to ensure that a broad and representative selection of submissions was heard.

Amendments to preliminary provisions

We recommend the insertion of new clauses 5(5A) and 5(5B), which amend the definition of "gaming machine" to ensure that it does not unintentionally capture equipment associated with gambling (such

as electronic card shufflers) that does not need to be regulated in the same way.

We recommend the addition of new subsection 2B in section 4 of the Act, as inserted by clause 5(18). This amendment clarifies that, when referring to problem or underage gambling, the words “risk” and “possibility” are synonymous. This change is intended to forestall any future interpretation by a judicial body to the effect that the Act intends these words to be understood to mean different things. Related to this amendment, we recommend some minor amendments to clauses 19, 20, 22, and 24, the insertion of new clauses 17B and 73A, and a consequential amendment to the Gambling (Harm Prevention and Minimisation) Regulations 2004 to ensure that the word “risk” is used consistently throughout the Act and associated regulations.

Prizes offered for gambling

We received advice from the Regulations Review Committee that the amendment proposed under clause 10 in the bill as introduced to insert a regulation-making power in the Act to restrict or prohibit any property or services from being offered or used as a prize for gambling is cast in very broad terms, and that the objective of the regulation is not specified. Having considered this matter, we recommend inserting the words, “consistent with the purpose of this Act” into new section 17(1), as inserted by clause 10. This amendment would make it clear that any regulations made to restrict or prohibit gambling prizes should be consistent with the Act’s broad policy objectives.

We also recommend that the phrase “retail value” replace “cash value” in clause 11. This clause requires a person conducting gambling to inform participants of the financial value of any non-cash prize offered. We believe the phrase “retail value” is more readily understood and would avoid any misapprehension that a non-cash prize was redeemable for cash.

Application of proceeds by corporate society

New section 52A, as inserted by clause 21, outlines the circumstances in which a corporate society may apply net proceeds to its own authorised purpose, rather than making grants.

We recommend the insertion of new clause 16A to clarify the status of the New Zealand Racing Board and racing clubs. This new clause provides that the board and racing clubs are to be treated as corporate societies that apply net proceeds from class 4 gambling to an authorised purpose, and that new section 52A does not apply to these bodies.

For the avoidance of doubt, we recommend an amendment to clause 47 to explain that the circumstances in which a corporate society may apply money to, rather than distribute money for, an authorised purpose are described in new section 52A.

Gaming machines to be confined to internal areas

An issue that has emerged since the passing of the Act in 2003 involves some gaming venues altering the layout of their gaming areas so that customers can gamble outside. This issue has largely arisen as a result of amendments in 2004 to the Smoke-free Environments Act 1990. The committee could not agree on resolving this issue in the bill.

Problem gambling, harm prevention, and harm minimisation

The bill makes a number of technical amendments to the Act's provisions for the identification of problem gamblers and their exclusion from gambling venues.

We recommend the insertion of clause 80(1AA). This amendment provides that a venue manager, rather than the holder of the class 4 venue licence, should be liable for any failure to display a notice in the gambling area advising customers that the venue has a policy for identifying problem gamblers.

We recommend the insertion of clause 83(1A), which clarifies that a problem gambler who is the subject of an exclusion order is excluded from the venue's gambling area, rather than the whole venue.

We recommend that clause 83(2) be amended to enhance the effectiveness of exclusion orders. Under this clause as amended, a venue manager or holder of a casino operator's licence (or person acting on their behalf) can refuse to issue an exclusion order if there is a failure

to provide a photograph that allows the person to be excluded to be readily identified.

New section 312A, as inserted by clause 85, requires the holder of a class 4 venue licence or a casino operator's licence to keep a record of every person excluded from their venue and to provide this information to the Secretary of Internal Affairs on request. We recommend two amendments to the information that must be provided to the Secretary under this new section. Rather than their name and address, we believe that the initials and date of birth of an excluded person should be provided. These changes address any privacy concerns about the passing on of personal information, but maintain the new section's aim of obtaining information about the number of exclusion orders issued under the Act in a form that distinguishes between one person who is excluded from several venues and several people each excluded from a single venue. Collecting this information would also enable the Secretary to determine whether venues were meeting their statutory responsibilities.

We recommend an amendment to clause 86(8) to provide for the making of regulations to restrict the availability of EFTPOS devices close to gambling machines. The bill is not intended to permit the making of regulations that would completely prohibit EFTPOS devices in gambling venues. Rather, consistent with the Act's harm minimisation objectives, the intention is to allow regulations that would require a player to walk away from the gaming machine to obtain additional money from an EFTPOS device.

Information gathering

The Act requires societies that own and operate gaming machines to be transparent in their distribution of funds in order to be accountable to the communities they serve. Some submitters expressed concern about how and where community funds are distributed. While the Act allows societies to make grants to the causes they choose, provided that they are authorised purposes, we believe that the public should be well informed about what happens to funds generated from gambling. Better information gathering would inform policy development and put communities in a better position to influence the behaviour of gaming machine societies.

We therefore recommend the insertion of new clause 99A which would amend section 365 of the Act. Section 365 already empowers the Secretary of Internal Affairs to collect information from persons involved in the conduct of gambling to facilitate the objectives of the Act. New clause 99A would enable the Secretary to also specify what information should be collected, how often, and the manner and form in which the information should be provided. The amendment further requires the Secretary to publish any resulting statistical information on the Department of Internal Affairs website or in another publicly accessible electronic form.

Conclusion

Many matters raised by submitters are on substantial policy issues and are unfortunately outside the scope of this bill.

As the key regulations and provisions of the Gambling Act did not come into force until June 2004, it needs to be given time to work. There are signs that it is working, with a significant reduction in the number of non-casino gaming machine venues, and a reduction in the number of machines.

However, we acknowledge the concerns in the community about gambling harm and recommend further consideration of the issues raised by submitters in the future.

View of the Green Party and the Māori Party

The Green and Māori Parties believe that the harm being done by pokies, particularly to Maori, Pacific Island, Asian, low income workers and beneficiaries - and their communities - means that Government should act with urgency to:

- devolve greater power to local authorities to reduce venue numbers
- accelerate investigation and application of new technologies such as player tracking and pre commit cards.
- cap racing as an authorized purpose, with restrictions on how pokie funds committed to racing are applied
- require the Department of Internal Affairs to publish class 4 grant reports quarterly along with EMS (Electronic Monitor-

ing System) reports – including clear information about where funds come from as well as where they go

- address serious issues around the role of Trusts in the distribution of pokie funds and the way in which so much funding is redistributed from poor communities to activities which benefit other people in other areas
- reform and improve the way in which the problem gambling levy is administered.

Appendix

Committee process

The Gambling Amendment Bill (No 2) was referred to the committee on 22 August 2007. The closing date for submissions was 12 October 2007. We received and considered 168 submissions from interested groups and individuals. We heard 47 submissions, which included holding hearings in Auckland.

We received advice from the Department of Internal Affairs and the Parliamentary Counsel Office. The Regulations Review Committee reported to the committee on the powers contained in clauses 10, 34, and 87.

Committee membership

Shane Ardern (Chairperson)

Darien Fenton (Deputy Chairperson)

Brian Connell

Hon Harry Duynhoven

Sandra Goudie

Hon Dover Samuels

Sue Bradford and Hone Harawira were non-voting members of the committee for this item of business.

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Rick Barker

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Government Bill

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Gambling Amendment Act (No 2) **2007**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act amended

This Act amends the Gambling Act 2003.

Part 1**Amendments to preliminary provisions**

10

4 Purpose

- (1) Section 3(b) is amended by omitting “the harm caused by” and substituting “harm from”.
- (2) Section 3(f) is amended by inserting “gambling and the conduct of” after “with”. 15

5 Interpretation

- (1) Section 4(1) is amended by repealing the definition of **allocation** and substituting the following definition:

“**allocate**, in relation to tickets in an instant game,—

“(a) that is a New Zealand lottery or part of a New Zealand lottery, means to determine, in accordance with section 248, the tickets that are prize-bearing tickets or the prize that each ticket bears: 20

“(b) that is not a New Zealand lottery or part of a New Zealand lottery, means to determine wholly by chance the tickets that are prize-bearing tickets or the prize that each ticket bears”. 25

- (2) Section 4(1) is amended by inserting the following definition after the definition of **allocate**:

“**apply**, in relation to the application by a corporate society of net proceeds from class 4 gambling to an authorised purpose, 30

means spending the net proceeds directly on the corporate society's own authorised purpose".

(3) The definition of **class 4 venue** in section 4(1) is amended by omitting "conduct" and substituting "operate".

(4) Section 4(1) is amended by inserting the following definition after the definition of **Department**:

"**distribute**, in relation to the distribution by a corporate society of net proceeds from class 4 gambling to an authorised purpose, means the corporate society making a grant to another person for that person to spend on an authorised purpose".

(5) Section 4(1) is amended by inserting the following definition after the definition of **draw**:

"**EFTPOS device** means an electronic funds transfer at point of sale device".

(5A) The definition of **gaming machine** in section 4(1) is amended by repealing paragraph (a) and substituting the following paragraph:

"(a) means a device, whether totally or partly mechanically or electronically operated, that—

"(i) is adapted or designed and constructed for gambling; and

"(ii) is played or confers a right to participate, whether totally or partly, by the insertion of money into it or by the direct or indirect payment of money by any other means; and".

(5B) Paragraph (d) of the definition of **gaming machine** in section 4(1) is amended by inserting the following subparagraph after subparagraph (iii):

"(iiia) a jackpot device that links a series of gaming machines and that can only be played through those gaming machines; or".

(6) Section 4(1) is amended by repealing the definition of **illegal gambling** and substituting the following definition:

"**illegal gambling** means gambling declared as illegal by section 9, **17(3), or 17A(2)**".

(7) The definition of **infringement offence** in section 4(1) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) an offence prescribed as an infringement offence by regulations made under section 360”.
- (8) Section 4(1) is amended by repealing the definition of **instant game** and substituting the following definition:
 “**instant game** means a form of gambling where prizes are allocated before, or simultaneously with, the sale of a ticket”.
- (9) Paragraph (b)(v) of the definition of **key person** in section 4(1) is amended by omitting “contracted to service” and substituting “who services”.
- (10) Paragraph (a) of the definition of **New Zealand lottery** in section 4(1) is amended by omitting “promoted by the Lotteries Commission under subpart 2 of Part 3 by means of” and substituting “conducted by the Lotteries Commission under subpart 2 of Part 3 that is”.
- (11) The definition of **relevant offence** in section 4(1) is amended by repealing paragraph (b) and substituting the following paragraph:
 “(b) an offence considered by the Secretary or the Gambling Commission (as the case may be) to be relevant; or”.
- (12) The definition of **remote interactive gambling** in section 4(1) is amended by repealing paragraph (a) and substituting the following paragraph:
 “(a) includes—
 “(i) gambling by a person at a distance by interaction through a communication device; or
 “(ii) the conduct of gambling described in **subparagraph (i)** by a person; but”.
- (13) Paragraph (b)(i) of the definition of **remote interactive gambling** in section 4(1) is amended by omitting “promoted” and substituting “conducted”.
- (14) Section 4(1) is amended by repealing the definition of **responsible gambling** and substituting the following definition:
 “**responsible gambling** means lawful participation in gambling—
 “(a) that is lawful, fair, and honest; and
 “(b) conducted—
 “(i) in a safe and secure environment; and

- “(ii) without pressure or devices that encourage or may encourage gambling at levels that cause or may cause harm; and
- “(c) by informed participants who understand the nature of the activity and do not participate in ways that cause or may cause harm; and 5
- “(d) conducted in a manner that is consistent with the general law of New Zealand, including being consistent with the maintenance of law and order”.
- (15) The definition of **sales promotion scheme** in section 4(1) is amended by inserting “restricted or” after “prize”. 10
- (16) The definition of **sales promotion scheme** is amended by repealing paragraph (c) and substituting the following paragraph:
- “(c) the person is not required to pay direct or indirect consideration other than to purchase the goods or services promoted (except the cost, at the standard rate, incurred in submitting an entry into the promotion, for example, the cost of postage at the standard rate or sending a telecommunication by mobile telephone at the standard rate); and”. 15 20
- (17) The definition of **venue operator** in section 4(1) is amended by omitting “to which section 65(3) applies” and substituting “for which the licence application was required under section 65(3) to be accompanied by a class 4 venue agreement”. 25
- (18) Section 4 is amended by inserting the following ~~subsection~~ subsections after subsection (2):
- “(2A) For the purposes of the definition of **sales promotion scheme**, the reference to standard rate, means a rate that—
- “(a) is determined solely by a telecommunications provider or other service provider who is not associated with the sales promotion scheme; and
- “(b) relates solely to the communication cost incurred in submitting an entry into the promotion and does not reflect cost incurred in participating in the promotion. 30 35
- “(2B) In this Act, a reference to possibility, in relation to problem gambling or underage gambling, is a reference to risk, and vice versa.”

- 6 New section 5 substituted**
Section 5 is repealed and the following section substituted:
- “5 Extended meaning of conduct**
In this Act, **conduct**, in relation to gambling, includes any of the following activities: 5
- “(a) organising, using, managing, supervising, and operating (but not playing) gambling or gambling equipment:
 - “(b) distributing the turnover of gambling (for example, by paying prizes, meeting costs, or making grants):
 - “(c) selling tickets to participate in gambling: 10
 - “(d) promoting gambling:
 - “(e) assisting in activities described in **paragraphs (a) to (d).**”
- 7 New section 8A inserted**
The following section is inserted after section 8: 15
- “8A Act binds the Crown**
This Act binds the Crown.”
- Part 2**
- Amendments to provisions relating to classes of gambling and institutions** 20
- 8 What is increase in casino gambling**
- (1) Section 12 is amended by repealing subsection (1) and substituting the following subsection:
- “(1) Decisions on what constitutes an increase in the opportunities for casino gambling are a function of the Gambling Commission.” 25
- (2) Section 12(2) is amended by omitting “Casino Control Authority, or the Gambling Commission,” in each place where it appears and substituting in each case “Gambling Commission”. 30
- 9 Advertising overseas gambling prohibited**
Section 16(2)(e) is amended by omitting “overseas gambling”.

10 New section 17 substituted

Section 17 is repealed and the following section substituted:

“17 Regulations may restrict or prohibit prizes

“(1) The Governor-General may, by Order in Council, make regulations that, consistent with the purpose of this Act, restrict or prohibit any property (whether real or personal) or services being offered or used as a prize for gambling. 5

“(2) Regulations made under **subsection (1)** may—

“(a) specify a quantity or dollar value of any property or services that may not be offered or used as a prize for gambling: 10

“(b) specify circumstances in which—

“(i) any property or services may not be offered or used as a prize for gambling:

“(ii) a quantity or dollar value of any property or services may not be offered or used as a prize for gambling: 15

“(c) apply to all gambling or to particular games, or categories, classes, or forms of gambling.

“(3) Gambling that offers or uses any property or services as a prize in breach of regulations made under **subsection (1)** is illegal gambling. 20

“(4) In this section, **property or services** includes an entitlement to property or services.”

11 New section 17A inserted

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The following section is inserted after section 17:

“17A ~~Cash~~ Retail value of non-cash prize must be stated

“(1) A person who is conducting gambling must inform participants, at the time and place of sale of the tickets, of the ~~cash~~ retail value and characteristics of any non-cash prize offered or used as a prize for the gambling. 30

“(2) Gambling that offers or uses any non-cash prize in breach of **subsection (1)** is illegal gambling.”

12 Secretary may categorise gambling

Section 21 is amended by repealing subsection (1) and substituting the following subsection: 35

- “(1) The Secretary may, by notice in the *Gazette*, categorise any game, or category or class of game, or form of gambling, as being included in or excluded from a class of gambling if the Secretary considers that—
- “(a) the categorisation contributes to achieving the purpose of this Act; and
- “(b) the level of risk associated with the game, or category or class of game, or form of gambling justifies the categorisation.”
- 13 Meaning of class 1 gambling** 10
- (1) Section 22 is amended by inserting the following paragraph after paragraph (d):
- “(da) there are game rules for the gambling; and”.
- (2) Section 22(e) is amended by inserting “, and the conduct of the gambling,” after “gambling”. 15
- 14 Meaning of class 2 gambling**
- (1) Section 24 is amended by inserting the following paragraph after paragraph (d):
- “(da) there are game rules for the gambling; and”.
- (2) Section 24(e) is amended by inserting “, and the conduct of the gambling,” after “gambling”. 20
- 15 Meaning of class 3 gambling**
- (1) Section 27 is amended by inserting the following paragraph after paragraph (b):
- “(ba) there are game rules for the gambling; and”. 25
- (2) Section 27(c) is amended by inserting “, and the conduct of the gambling,” after “gambling”.
- 16 New section 30 substituted**
- Section 30 is repealed and the following section substituted:
- “30 Meaning of class 4 gambling** 30
- In this Act, **class 4 gambling** is gambling that satisfies the following criteria:
- “(a) the net proceeds from the gambling are applied to, or distributed for, authorised purposes; and

- “(b) no commission is paid to, or received by, a person for conducting the gambling; and
- “(c) there are game rules for the gambling; and
- “(d) the gambling, and the conduct of the gambling, satisfies relevant game rules; and 5
- “(e) either—
- “(i) the Secretary has categorised the gambling as class 4 gambling and not as another class of gambling; or
- “(ii) the gambling utilises or involves a gaming machine.” 10
- 16A Status of New Zealand Racing Board and racing clubs**
- Section 33 is amended by repealing subsection (1) and substituting the following subsections:
- “(1) The New Zealand Racing Board and societies that are racing clubs under the Racing Act 2003 must be treated as corporate societies—
- “(a) for the purposes of—
- “(i) a class 4 operator’s licence or class 4 venue licence; or 20
- “(ii) an application for, or the renewal or amendment of, either licence; and
- “(b) that, for the purposes of a class 4 operator’s licence or a class 4 venue licence, apply net proceeds from class 4 gambling to an authorised purpose. 25
- “(1A) Despite **subsection (1)(b)** and to avoid doubt, **section 52A** does not apply to the New Zealand Racing Board or a racing club.”
- 17 New section 34 substituted**
- Section 34 is repealed and the following section substituted: 30
- “34 Meaning of casino gambling**
- In this Act, **casino gambling**—
- “(a) means gambling—
- “(i) for which there are game rules; and
- “(ii) that satisfies those game rules; and 35
- “(iii) which is conducted in accordance with those game rules; and

- “(iv) to which both a casino venue licence and casino operator’s licence apply; but
“(b) does not include gambling conducted by the New Zealand Racing Board referred to in section 120.”

17A Secretary must investigate applicant for class 3 operator’s licence 5

Section 36(3) is amended by omitting “10” in each place where it appears and substituting in each case “7”.

17B Content and conditions of class 3 operator’s licence

Section 38(2)(a) is amended by omitting “risks of players becoming problem gamblers” and substituting “the risk of problem gambling”. 10

18 Renewal of class 3 operator’s licence

Section 41(1) is amended by omitting “operates” and substituting “conducts”. 15

19 Application for class 4 operator’s licence

(1) Section 50(2)(e) is amended by inserting “corporate” after “including the”.

(1) Section 50(2)(c) is amended—

(a) by omitting “risks” and substituting “risk”; and 20
(b) by inserting “corporate” after “including the”.

(2) Section 50(2) is amended by inserting the following paragraph after paragraph (d):

“(da) in the case of an applicant that proposes to apply some or all of its net proceeds from the class 4 gambling to an authorised purpose, information to assist the Secretary to determine whether the applicant meets the requirements of **section 52A(1)**; and” 25

(3) Section 50(2)(e) is amended by omitting “operates to mainly distribute” and substituting “mainly or wholly distributes”. 30

(4) Section 50(2)(f) is amended by omitting “class 4 gambling, history in gambling” and substituting “conducting class 4 gambling”.

19A Secretary must investigate applicant for class 4 operator's licence

Section 51(3) is amended by omitting "10" in each place where it appears and substituting in each case "7".

20 Grounds for granting class 4 operator's licence

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(1) Section 52(1)(g) is amended by omitting "risks" and substituting "~~possibility risk~~".

(2) Section 52(1)(j) is amended by omitting "club that intends to operate gambling equipment on its own non-commercial premises, the New Zealand Racing Board, or a racing club" and substituting "class 4 venue licence application, which was not or is not required under section 65(3) or (4) to be accompanied by a class 4 venue agreement".

10

(3) Section 52(4)(a) is amended by omitting "10" and substituting "7".

15

(4) Section 52(4)(a) is amended by omitting "; and" and substituting ":", and also by adding the following subparagraphs:

"(iv) been a director of a company that has been placed in receivership or put into liquidation, and been involved in the events leading to the company being placed in receivership or put into liquidation:

20

"(v) been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993:

25

"(vi) been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006; and".

30

(5) Section 52(4) is amended by repealing paragraph (b) and substituting the following paragraph:

"(b) the financial position and credit history of the applicant and each key person; and".

21 New section 52A inserted

35

The following section is inserted after section 52:

- “52A Circumstances in which corporate society may apply net proceeds to authorised purpose**
- “(1) A corporate society may apply some or all of its net proceeds to an authorised purpose only if the Secretary is satisfied that the corporate society’s primary activity is itself an authorised purpose and the conduct of gambling by the corporate society is only incidental to that activity. 5
- “(2) When considering whether **subsection (1)** applies to a corporate society, the Secretary may take the following into account:
- “(a) whether the corporate society can demonstrate a significant history of carrying out activities that are authorised purposes; and 10
- “(b) whether the corporate society’s governing document is consistent with the corporate society having a primary objective of carrying out activities that are authorised purposes. 15
- “(3) When considering whether **subsection (1)** applies to a corporate society that is a club, the Secretary may also take the following into account:
- “(a) whether the club has, or had before merging under section 95, a significant history of operating as a club for club purposes; and 20
- “(b) whether the club has substantial active membership.”
- 22 Content and conditions of class 4 operator’s licence** 25
- (1) Section 53(1) is amended by omitting “granted after the commencement of this section”.
- (2) Section 53(2)(a) is amended by omitting “risks of players becoming problem gamblers” and substituting “the possibility risk of problem gambling”.
- 22A Renewal of class 4 operator’s licence** 30
- Section 56(5)(b) is amended by omitting “licence conditions, game rules, and minimum standards” and substituting “minimum standards, game rules, *Gazette* notices, and licence conditions”.

23 Procedure for suspending, cancelling, or refusing to amend or renew class 4 operator’s licence

Section 59(4)(d) is amended by inserting “(if relevant)” after “period”.

24 Application for class 4 venue licence

5

(1AA) Section 65(2)(d) is amended by omitting “risks” and substituting “risk”.

(1) Section 65(2)(e) is amended by omitting “class 4 gambling, history in gambling,” and substituting “conducting class 4 gambling,”.

10

(2) Section 65(2)(k) is amended by omitting “for a class 4 venue that is not established before the commencement of this section,” and substituting “if the application relates to a venue for which a class 4 venue licence was not held at the time of commencement of this section,”.

15

25 Secretary must investigate applicant for class 4 venue licence

(1AA) Section 66(4) is amended by omitting “10” in each place where it appears and substituting in each case “7”.

(1) Section 66(6) is amended by adding “or (2)”.

20

26 Grounds for granting class 4 venue licence

(1) Section 67(1)(b) is amended by omitting “minimal” and substituting “minimised”.

(2) Section 67(1)(m) is amended by omitting “to which section 65(3) applies” and substituting “that is required under section 65(3) to be accompanied by a class 4 venue agreement”.

25

~~(3) Section 67(1)(p) is amended by omitting “risk” and substituting “possibility”.~~

(4) Section 67(1) is amended by repealing paragraph (s) and substituting the following paragraph:

30

“(s) the applicant is able to comply with all other applicable regulatory requirements.”

27 Determining suitability for class 4 venue licence

Section 68(1)(a) is amended by—

- (a) omitting “he or she has, within the last 10” and substituting “he, she, or it has, within the last 7”; and
- (b) adding the following subparagraphs:
 - “(iv) been a director of a company that has been placed in receivership or put into liquidation, and been involved in the events leading to the company being placed in receivership or put into liquidation: 5
 - “(v) been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993: 10
 - “(vi) been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006.”. 15

28 Content and conditions of class 4 venue licence

- (1) Section 70(1) is amended by omitting “granted after the commencement of this section”.
- (2) Section 70(1) is amended by inserting the following paragraph after paragraph (c): 20
 - “(ca) the name of the class 4 venue; and”.
- (3) Section 70(2)(a) is amended by omitting “procedures” and substituting “conditions”.
- (4) Section 70(2)(c) is amended by omitting “procedures for banking” and substituting “conditions concerning the banking of”. 25
- (5) Section 70(2) is amended by inserting the following paragraph after paragraph (f):
 - “(fa) conditions to minimise the possibility of problem gambling at the venue; and”. 30
- (6) Section 70(2)(g) is amended by omitting “procedures to encourage” and substituting “conditions encouraging”.

29 Significant changes in relation to class 4 venue licence must be notified

- (1) Section 71(1) is amended by inserting the following paragraph after paragraph (d): 35

“(da) the venue manager changes:”.

- (2) Section 71(1)(g) is amended by inserting “, under section 79(1)(a),” after “surrendered”.

29A Renewal of class 4 venue licence

Section 72(5)(c) is amended by omitting “licence conditions, game rules, and minimum standards” and substituting “minimum standards, game rules, Gazette notices, and licence conditions”. 5

30 Procedure for suspending, cancelling, or refusing to amend or renew class 4 venue licence 10

Section 75(4)(d) is amended by inserting “(if relevant)” after “period”.

31 Certain information must be displayed at class 4 venue

Section 82(1)(c) is amended by—

- (a) inserting “mainly or wholly” after “are”; and 15
 (b) repealing subparagraph (ii) and substituting the following subparagraph:
 “(ii) the corporate society’s contact details for submitting complaints regarding the distribution of net proceeds; and” 20

32 Obligation on disposal of gaming machines

- (1) Section 83(1) is amended by inserting “or former holder” after “holder”.

- (2) Section 83(1) is amended by inserting the following paragraph before paragraph (a): 25

“(aa) the manufacturer, model, and serial number of the gaming machine and any other details necessary to identify the gaming machine with ease; and”.

- (3) Section 83(1)(b) is amended by inserting “if relevant,” before “the name”. 30

- (4) Section 83(2) is amended by inserting “or former holder” after “holder”.

33 Disabling gambling equipment

Section 85(6) is amended by inserting “or a person appointed under section 88 to implement and operate the system” after “Crown”.

34 Holder of class 4 operator’s licence must connect to electronic monitoring system 5

(1) Section 86 is amended by repealing subsection (1) and substituting the following subsection:

“(1) The holder of a class 4 operator’s licence must connect the following gambling equipment to an electronic monitoring system specified by the Secretary in a notice to the holder: 10

- “(a) all gaming machines under the holder’s control; and
 “(b) any other gambling equipment, or classes of gambling equipment, specified by the Secretary by notice in the *Gazette*.” 15

(2) Section 86(3) is amended by repealing paragraph (a) and substituting the following paragraph:

- “(a) to particular corporate societies or classes of corporate society:”.

(3) Section 86(4) is repealed. 20

(4) Section 86 is amended by adding the following ~~subsection~~ subsections:

“(6) A notice under **subsection (1)(b)**—

- “(a) is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989; but 25
 “(b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

“(7) The Minister must present a copy of the notice to the House of Representatives not later than 16 sitting days after the day on which it is given.” 30

35 Secretary may select monitor

Section 88 is amended by adding the following subsection as subsection (2):

“(2) Despite **subsection (1)**, the Secretary may appoint 1 or more persons that the Secretary considers to be suitable to implement and operate 1 or more electronic monitoring systems in 35

order to facilitate the transfer of an electronic monitoring system from the person appointed under **subsection (1)** to another person.”

- 36 Limit on number of gaming machines for which class 4 venue licence held on 17 October 2001** 5
Section 92(2) and (3) are amended by omitting “society” and substituting in each case “corporate society”.
- 37 Limit on number of gaming machines for which class 4 venue licence granted after 17 October 2001 but before commencement** 10
(1) Section 93(2) is amended by omitting “society” and substituting “corporate society”.
(2) Section 93(3) to (7) are repealed.
(3) Section 93(8) is amended by omitting “society” and substituting “corporate society”. 15
- 38 Ministerial discretion to permit more gaming machines if clubs merge**
(1) Section 95(1)(c) is amended by omitting “to which section 92 applies”.
(2) Section 95 is amended by repealing subsection (3) and substituting the following subsection: 20
“(3) The Minister may approve an application under subsection (2) as the Minister sees fit.”
(3) Section 95(6) is amended by—
(a) omitting from paragraph (a) “the previous” and substituting “any previous”; and 25
(b) repealing paragraph (b) and substituting the following paragraph:
“(b) a corporate society may not, within 6 months after the cancellation, submit an application for a class 4 venue 30
licence in relation to any of the class 4 venues referred to in **paragraph (a)**.”

39 Ministerial discretion to permit more than 9 machines at certain class 4 venues

(1) Section 96 is amended by repealing subsection (3) and substituting the following subsection:

“(3) The Minister may approve an application under subsection (2) as the Minister sees fit.” 5

(2) Section 96 is amended by inserting the following subsection after subsection (5):

“(5A) On the issue of a new class 4 venue licence,—

“(a) the Secretary must cancel any previous class 4 venue licences held by the corporate society, and there is no right of appeal against that cancellation; and 10

“(b) a corporate society may not, within 6 months after the cancellation, submit an application for a class 4 venue licence in relation to any of the class 4 venues referred to in **paragraph (a)**.” 15

40 New section 98 substituted

Section 98 is repealed and the following section substituted:

“98 When territorial authority consent required

A territorial authority consent is required in the following circumstances: 20

“(a) if a corporate society proposes to increase the number of gaming machines that may be operated at a class 4 venue (whether by way of an application for, or amendment to, a class 4 venue licence, and whether or not in association with an application for ministerial discretion under section 95 or 96): 25

“(b) if a corporate society applies for a class 4 venue licence and a class 4 venue licence has not been held by any corporate society for the venue within the last 6 months.” 30

41 Considering and determining application for territorial authority consent

(1) Section 100(1)(a) is amended by inserting “and determine” after “consider”.

(2) Section 100(1)(b)(i) is amended by inserting “(but with no other condition)” after “venue”. 35

- (3) Section 100 is amended by adding the following subsection:
“(5) A territorial authority consent for a class 4 venue expires 6 months after its date of issue if no application for a class 4 venue licence in relation to the venue has been submitted.”
- 42 Adoption and review of class 4 venue policy** 5
Section 102(1)(a) is amended by inserting “corporate” after “each”.
- 43 Provision of information relating to class 4 venues in territorial authority district**
Section 103(a) is amended by inserting “corporate” after “each”. 10
- 44 Gaming machine profits must be banked**
(1) Section 104 is amended by repealing subsection (1) and substituting the following subsection:
“(1) A venue manager must bank all gaming machine profits from class 4 gambling directly into a dedicated account for gaming machine profits specified by, and in the name of, the holder of the class 4 operator’s licence at a registered bank in New Zealand.” 15
- (2) Section 104 is amended by repealing subsection (3) and substituting the following subsection: 20
- “(3) If a venue manager contravenes **subsection (1)** or (2), the holder of the class 4 operator’s licence—
“(a) must advise the Secretary of the contravention as soon as possible after becoming aware of the contravention; 25
and
“(b) must immediately—
“(i) take steps to disable all gaming machines at the class 4 venue and advise the Secretary of the disablement; or 30
“(ii) request the Secretary to disable all gaming machines at the class 4 venue by means of the electronic monitoring system; and
“(c) must not subsequently enable, or if **paragraph (b)(ii)** applies, request the Secretary to enable, the gaming machines at the class 4 venue until the gaming machine 35

profits have been banked in accordance with **subsection (1).**”

(3) Section 104(5) is amended by omitting “and section 105” and substituting “, section 105, and **105A**”.

(3) Section 104 is amended by repealing subsection (5) and substituting the following subsection: 5

“(5) In this section and sections 105 and **105A, gaming machine profits** means the turnover of class 4 gambling minus the total prizes paid.”

45 Interest, etc, on gaming machine profits 10

(1) Section 105 is amended by repealing subsection (1) and substituting the following subsection:

“(1) The holder of a class 4 operator’s licence must ensure that the interest or other investment return on the gaming machine profits referred to in section 104, plus the proceeds from the sale of any fittings, chattels, or gambling equipment purchased from those profits, is credited directly to or banked directly into (as the case may be) a dedicated account for gaming machine profits in the name of the holder of the class 4 operator’s licence at a registered bank in New Zealand.” 15 20

(2) Section 105(3) is repealed.

46 New section 105A inserted

The following section is inserted after section 105:

“105A Management of gaming machine profits bank account

“(1) The holder of a class 4 operator’s licence must not meet the costs of the class 4 gambling operation or apply funds to, or distribute funds for, authorised purposes except from a dedicated account for gaming machine profits referred to in **section 104(1) or 105(1).**” 25

“(2) Unless the Secretary gives consent to some or all of the gaming machine profits, interest, investment return, and proceeds being transferred to another bank account, the gaming machine profits, interest, investment return, and proceeds must remain in the account for the gaming machine profits until the class 4 operator either— 30 35

- “(a) uses the gaming machine profits, interest, investment return, and proceeds to meet the costs of the class 4 gambling operation; or
- “(b) applies the gaming machine profits, interest, investment return, and proceeds to, or distributes the gaming machine profits, interest, investment return, and proceeds for, authorised purposes. 5
- “(3) A holder of a class 4 operator’s licence who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.” 10
- 47 Corporate society must apply or distribute net proceeds from class 4 gambling to or for authorised purpose**
- (1AA) Section 106 is amended by inserting the following subsection after subsection (1):
- “(1A) To avoid doubt, the requirement in subsection (1) for a corporate society to apply or distribute the net proceeds from class 4 gambling is subject to the restriction in **section 52A** relating to the circumstances in which a corporate society may apply, rather than distribute, those net proceeds.” 15
- (1) Section 106(3)(b) is amended by inserting “applied or” after “yet”. 20
- 48 Contents of annual report**
- Section 108(1) is amended by inserting “to or” after “gambling”.
- 49 Annual review of criteria for distribution of net proceeds** 25
- Section 109 is amended by omitting “operates mainly to distribute” and substituting “mainly or wholly distributes”.
- 50 Publication requirements for corporate societies**
- (1) Section 110(1) is amended by omitting “conducts class 4 gambling mainly to distribute” and substituting “mainly or wholly distributes”. 30
- (2) Section 110(3)(c) is amended by inserting “net” after “distribution of”.

51 Application or distribution of net proceeds when corporate society ceases class 4 gambling

Section 111 is amended by repealing subsection (1) and substituting the following subsections:

- “(1) A corporate society that has not operated class 4 gambling for a period of more than 4 weeks must, unless it has notified the Secretary and the Secretary has agreed that it may remain inactive for a further specified period,—
- “(a) report to the Secretary on the relevant standard form, within 20 working days of the end of that 4-week period on how and when it proposes to apply or distribute the remaining net proceeds to or for authorised purposes; and
- “(b) promptly sell all fittings, chattels, and gambling equipment purchased from gambling profits and apply or distribute the proceeds of the sale to or for authorised purposes; and
- “(c) promptly apply or distribute all other remaining net proceeds from its conduct of class 4 gambling to or for authorised purposes.
- “(1A) A corporate society that has applied or distributed net proceeds in accordance with **subsection (1)(b) or (c)** must report to the Secretary on the relevant standard form, within 5 working days of the application or distribution to or for authorised purposes, on—
- “(a) the proceeds from the sale of the fittings, chattels, and gambling equipment; and
- “(b) the final application or distribution of net proceeds from class 4 gambling under **subsection (1)**.”

52 Key persons must not be involved in certain activities or decisions

- (1) Section 113 is amended by omitting “in relation to a venue” in each place where it appears and substituting in each case “in relation to a class 4 venue licence”.
- (2) Section 113(1) is amended by omitting “to which section 65(3) applies” and substituting “, the application for which was required under section 65(3) to be accompanied by a class 4 venue agreement,”.

- (3) Section 113(1) is amended by repealing paragraph (c) and substituting the following paragraph:
“(c) provide, or be involved in decisions about who will provide, goods or services to the corporate society that conducts gambling at the class 4 venue; or” 5
- (4) Section 113 is amended by inserting the following subsection after subsection (1):
“(1A) **Subsection (1)(c)** does not apply—
“(a) to a person who is a key person in relation to the class 4 venue licence only because that person services gambling equipment at the class 4 venue; or 10
“(b) to the provision of services listed in the class 4 venue agreement.”
- 53 Regulations regarding application or distribution of net proceeds from class 4 gambling** 15
- (1) Section 114(1)(a) is amended by omitting “apply” and substituting “allocate for application, apply,”.
- (2) Section 114(1)(b) is amended by inserting “to or for authorised purposes” after “distribution”.
- 54 New section 115A inserted** 20
The following section is inserted after section 115:
“115A Duty on grant recipients
“(1) A grant recipient who receives a grant of net proceeds from class 4 gambling must use the grant—
“(a) only for the specific authorised purpose for which it was granted; and 25
“(b) in accordance with any conditions consistent with this Act attaching to the grant.
“(2) A grant recipient who contravenes **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.” 30
- 55 Secretary may investigate and audit licensees, grant recipients, and businesses at class 4 venues**
Section 117(1) is amended by inserting “, application,” after “generation”. 35

56 Certain persons must not seek, receive, or offer benefits with conditions attached

- (1) Section 118 is amended by inserting the following subsection after subsection (3):

“(3A) Any other person involved in making decisions on grant applications made to the holder of a class 4 operator’s licence must not knowingly receive or seek money, a benefit, an advantage, a privilege, or a gift from a grant recipient (or potential grant recipient) if the receipt has a condition attached to it, and whether the receipt or condition is direct, indirect, formal, informal, or otherwise.” 5 10

- (2) Section 118(6)(a) and (b) are amended by inserting “, benefit, advantage, privilege, or gift” after “money”.

57 Suitability requirements

Section 124(2)(b) is amended by adding the following subparagraphs: 15

“(iv) whether the applicant or person has been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993; and 20

“(v) whether the applicant or person has been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006; and” 25

58 Conditions of casino licence

Section 139(2)(b) is amended by omitting “purposes” and substituting “purpose”. 30

59 Notification of suspension and cancellation

- (1) Section 146(2)(c) is amended by inserting “(if relevant)” after “period”.

- (2) Section 146(2)(e) is amended by omitting “section 148” and substituting “section 235”. 35

- (3) Section 146(3) is amended by omitting “section 148” and substituting “section 235”.

60 Section 148 repealed
Section 148 is repealed.

60A Review of associated persons by Secretary 5
Section 155(3) is amended by omitting “subsection (1)” and substituting “subsection (2)”.

61 Information and matters that Secretary may take into account

Section 161(1)(b) is amended by adding “; and” and also by adding the following subparagraphs: 10

“(iv) whether the applicant has been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993; and 15

“(v) whether the applicant has been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006.” 20

62 Expiry of certificate of approval

Section 164 is amended by repealing paragraph (c) and substituting the following paragraph: 25

“(c) 12 months after the holder of the certificate of approval ceases to be employed by, or contracted to, the holder of a casino licence—

“(i) to do activities to which section 158(2) applies; or 30

“(ii) to perform the services referred to in section 158(4); or

“(iii) as a casino employee in any class prescribed in regulations made under section 371(1)(f); or”.

63 Application for suspension or cancellation of certificate of approval

Section 166(6) is amended by omitting “applicant” in the first place where it appears and substituting “holder of the certificate of approval”.

5

64 Obligation on disposing of gaming machine

(1) The heading to section 179 is amended by omitting “**disposing of gaming machine**” and substituting “**disposal of gaming machines**”.

(2) Section 179(1) is amended by inserting the following paragraph before paragraph (a):

“(aa) the manufacturer, model, and serial number of the gaming machine and any other details necessary to identify the gaming machine with ease; and”.

(3) Section 179(1)(a) is amended by omitting “.” and substituting “; and”.

(4) Section 179(1)(b) is amended by inserting “if relevant,” before “the name”.

65 Notice of licence application

Section 193 is amended by inserting “or a renewal of a licensed promoter’s licence” after “licence”.

20

66 Grounds for granting licensed promoter’s licence

(1) Section 201(1) is amended by adding “and will comply with all relevant requirements of this Act”.

(2) Section 201(2)(a) is amended by—

25

(a) omitting “10” and substituting “7”; and

(b) inserting the following subparagraphs after subparagraph (iii):

“(iia) been a director of a company that has been placed in receivership or put into liquidation, and been involved in the events leading to the company being placed in receivership or put into liquidation;

30

“(iib) been prohibited or disqualified from acting as a director or promoter of, or in any way, whether

35

- directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993:
- “(iii) ~~been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006.”~~ 5
- (2) Section 201 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) In determining whether an applicant is suitable for a licensed promoter’s licence, the Secretary may investigate and take into account the following things: 10
- “(a) whether the applicant or a key person has, within the last 7 years,—
- “(i) been convicted of a relevant offence: 15
- “(ii) held, or been a key person in relation to, a licence under this Act or previous gaming Acts that has been cancelled, or suspended, or for which an application for renewal has been refused:
- “(iii) been placed in receivership, gone into liquidation, or been adjudged bankrupt: 20
- “(iv) been a director of a company that has been placed in receivership or put into liquidation, and been involved in the events leading to the company being placed in receivership or put into liquidation: 25
- “(v) been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993: 30
- “(vi) been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006:
- “(b) the profile of past compliance by the applicant and each key person with— 35
- “(i) this Act, minimum standards, game rules, Gazette notices, and licence conditions; and

- “(ii) the Racing Act 2003 or the Racing Act 1971 (and any rules of racing made under either of those Acts); and
“(iii) previous gaming Acts, and regulations made under previous gaming Acts; and
“(iv) a licence or a site approval issued under a previous gaming Act; and
“(c) the financial position and credit history of the applicant and each key person.”
- 67 New section 203A inserted** 10
 The following section is inserted after section 203:
“203A Significant changes in relation to licensed promoter’s licence must be notified
 “(1) A licensed promoter must notify the Secretary and provide details of significant changes to the information supplied in, or accompanying, an application for a licence or an amendment to or renewal of a licence. 15
 “(2) Notification must occur before, or as soon as practicable after, the changes occur.
 “(3) The powers and obligations in section 200 apply to a notification of changes as if the notification were an application for a licensed promoter’s licence. 20
 “(4) The Secretary may require the licensed promoter to apply for an amendment to the licence under **section 205A** or may invoke the suspension or cancellation provisions under section 206 or 207 as a result of the notification of changes.” 25
- 68 Heading above section 205 amended**
 The heading above section 205 is amended by inserting “*or amendment*” after “*Renewal*”.
- 69 Renewal of licensed promoter’s licence** 30
 Section 205(3) is amended by omitting “200” and substituting “193, 200.”.
- 70 New section 205A inserted**
 The following section is inserted after section 205:

“205A Amending licensed promoter’s licence

- “(1) A licensed promoter must apply to the Secretary to amend that licensed promoter’s licence if he, she, or it proposes to make any change that impacts on the licensed promoter’s ability to continue to comply with this Act or the licence. 5
- “(2) An application must be on the relevant standard form.
- “(3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- “(4) Sections 200 and 201 apply to an application for amendment as if it were an application for a licensed promoter’s licence. 10
- “(5) The Secretary must refuse to amend a licensed promoter’s licence if any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 201.”

71 New section 225A inserted 15

The following section is inserted after section 225:

“225A Protection of Gambling Commission and Department

- “(1) The Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission under section 228 is not liable— 20
- “(a) for any act or omission by reason only of being the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing those services; or
- “(b) for any act or omission by him or her, in the performance or intended performance of the Gambling Commission’s functions, unless done in bad faith. 25
- “(2) The Secretary may indemnify the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission under section 228 for costs incurred by him or her in a proceeding that relates to acts or omissions by him or her in good faith in the performance or intended performance of the Gambling Commission’s functions. 30
- “(3) The Secretary may effect insurance for the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission under section 228 in relation to— 35

- “(a) liability (other than criminal liability) for any act or omission in the performance or intended performance of the Gambling Commission’s functions; and
- “(b) costs incurred in any proceeding relating to that liability or in any criminal proceedings. 5
- “(4) In this section,—
- “(a) references to the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission include references to a former Chief Gambling Commissioner, a former Gambling Commissioner, and a person who formerly provided services to the Gambling Commission under section 228: 10
- “(b) **effect insurance** and **indemnify** have the same meanings as in section 294.” 15
- 72 Gambling Commission to sit in divisions**
- (1) The heading to section 227 is amended by omitting “**to**” and substituting “**may**”.
- (2) Section 227 is amended by repealing subsections (1) and (2) and substituting the following subsections: 20
- “(1) The Gambling Commission may, as it thinks fit, sit as a division to carry out any of its functions under section 224.
- “(2) If the Gambling Commission decides to sit as a division, the division must consist of up to 3 members, including the Chief Gambling Commissioner or a Gambling Commissioner acting on behalf of the Chief Gambling Commissioner.” 25
- (3) Section 227(4) to (6) are repealed.
- 73 Appeals**
- (1) Section 235(4) is amended by inserting “or the date of the High Court decision (as the case may be),” after “decision”. 30
- (2) Section 235 is amended by inserting the following subsection after subsection (4):
- “(4A) To avoid doubt, a casino licence remains in force (unless it expires or is surrendered) until all appeals are decided, or the period for appeal expires.” 35

73A Functions of Lotteries Commission

Section 238(b) is amended by omitting “risks of problem gambling and underage gambling are” and substituting “risk of problem gambling and underage gambling is”.

74 Bank accounts

5

(1) Section 286(2) is amended by omitting “only by cheque signed”.

(2) Section 286 is amended by adding the following subsection:

“(3) Cash may not be withdrawn from an account referred to in subsections (1) and (2).”

10

75 Crown entity

Section 291 is amended by omitting “is” in the second place where it appears.

76 Subpart 4 repealed

Subpart 4 of Part 3 is repealed.

15

Part 3

**Amendments to provisions relating to
harm prevention and minimisation,
enforcement, and other matters**

77 Age restriction on instant games and similar games

20

Section 301(5) is amended by omitting “he or she” and substituting “the defendant”.

78 Age restriction on class 4 gambling

Section 302(5) and (6) are amended by omitting “he or she” and substituting in each case “the defendant”.

25

79 Age restriction on gambling in casinos

Section 303(3) and (4) are amended by omitting “he or she” and substituting in each case “the defendant”.

80 Requirement to develop policy for identifying problem gamblers

(1AA) Section 308(3) is amended by omitting “The holder of a class 4 venue licence or” and substituting “The venue manager or the holder of a”.

5

(1) Section 308 is amended by repealing subsections (4) and (5) and substituting the following subsections:

“(4) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, must take all reasonable steps to ensure that the policy is used to identify actual or potential problem gamblers.

10

“(5) A holder of a class 4 venue licence or casino operator’s licence who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

“(6) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, who contravenes **subsection (4)** commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.”

15

(1) Section 308 is amended by repealing subsection (4) and substituting the following subsection:

20

“(4) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, must take all reasonable steps to ensure that the policy is used to identify actual or potential problem gamblers.”

(2) Section 308 is amended by adding the following subsection:

25

“(6) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, who contravenes **subsection (4)** commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.”

81 Exclusion order may be issued to problem gambler identified under section 308

30

(1) Section 309(1) is amended by omitting “or she” and substituting “, she, or it”.

(2) Section 309(3) and (4) are amended by inserting “, or a person acting on behalf of either of those persons,” after “licence”.

35

82 New section 309A inserted

The following section is inserted after section 309:

“309A Duty to assist problem gambler if ongoing concern exists

A venue manager or the holder of a casino operator’s licence,
or a person acting on behalf of either of those persons, must
take all reasonable steps to assist a person including, if appro-
priate, issuing the person with an exclusion order under **sec-**
tion 309(3) if—

- “(a) the venue manager or the holder of the casino operator’s
licence, or a person acting on behalf of either of those
persons, has already approached the person and provid-
ed information or advice to the person about prob-
lem gambling under **section 309(1)**; and
- “(b) the person has not requested that he or she be issued
with an exclusion order under **section 310(1)** (which
relates to the exclusion of a self-identified problem
gambler); and
- “(c) the person’s ongoing gambling or other behaviour at the
venue means that the venue manager or the holder of the
casino operator’s licence, or a person acting on behalf
of either of those persons, still has reasonable grounds
to believe that the person is a problem gambler.”

83 Exclusion order must be issued to self-identified problem gambler

- (1) Section 310(1)(a) and (b) are amended by inserting “, or a
person acting on behalf of either of those persons,” after “li-
cence”.

(1A) Section 310(1)(b) is amended by inserting “gambling area of
the” after “entering the”.

- (2) Section 310 is amended by inserting the following subsection
after subsection (1):

“(1A) A venue manager or the holder of a casino operator’s licence,
or a person acting on behalf of either of those persons, may
refuse to issue an exclusion order under **subsection (1)** if the
person requesting the order fails or refuses to comply with a
request to provide—

- “(a) the person’s name and contact details; and

~~“(b) a recent photograph of the person or consent to a photograph of him or her being taken.”~~

(2) Section 310 is amended by inserting the following subsection after subsection (1):

“(1A) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, may refuse to issue an exclusion order under subsection (1) if—

“(a) the person requesting the order fails or refuses to comply with a request to—

“(i) provide the person’s name and date of birth; and

“(ii) either provide a recent photograph of the person or consent to a photograph of him or her being taken; or

“(b) the quality of the photograph referred to in **paragraph (a)(ii)** is such that the person cannot be readily identified.”

(3) Section 310(2) is amended by inserting “, or a person acting on behalf of either of those persons,” after “licence”.

84 New section 312 substituted

Section 312 is repealed and the following section substituted:

“312 Offences relating to breach of exclusion order

“(1) Every person commits an offence who enters the gambling area of a class 4 venue or casino venue—

“(a) in breach of an exclusion order issued under **section 309(3) or 310(1)**; or

“(b) in breach of a condition of re-entry imposed under **section 309(4) or 310(2)**.

“(2) Every venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, commits an offence who, after having received a request under **section 310(1)** that includes the information specified in **section 310(1A)**, fails to issue an exclusion order to a self-identified problem gambler.

“(3) Every venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, commits an offence who—

- “(a) allows a person who is subject to an exclusion order under **section 310(1)** to enter the gambling area of a class 4 venue or casino venue; or
- “(b) fails to remove a person who has entered those areas—
- “(i) in breach of an exclusion order issued under **section 310(1)**; or
- “(ii) in breach of a condition of re-entry imposed under **section 310(2)**.
- “(4) It is a defence to a charge under **subsection (3)** if the defendant proves that—
- “(a) there were procedures in place at the venue to prevent a person subject to an exclusion order issued under **section 310(1)** from entering, or remaining in, the gambling area of the class 4 venue or casino venue; and
- “(b) the defendant had reasonable grounds to believe that those procedures would be effective in preventing a person subject to an exclusion order issued under **section 310(1)** from entering, or remaining in, the gambling area of the class 4 venue or casino venue; and
- “(c) despite the breach of **subsection (3)**, the defendant took all reasonable steps to ensure that those procedures were complied with.
- “(5) Every person who commits an offence—
- “(a) against **subsection (1)** is liable on summary conviction to a fine not exceeding \$500;
- “(b) against **subsection (2) or (3)** is liable on summary conviction to a fine not exceeding \$5,000.”

85 New section 312A inserted

The following section is inserted after section 312:

- “**312A Duty to keep record of excluded persons**
- Every holder of a class 4 venue licence or casino operator’s licence must,—
- “(a) in relation to each person excluded from the class 4 venue or casino venue (as the case may be), keep a record of—
- “(i) the person’s name and address date of birth (if provided); and

- “(ii) whether the person was excluded from the venue under **section 309 or 310**; and
- “(iii) the date on which the exclusion order was issued and the date of its expiry; and
- “(iv) any conditions imposed on the person’s re-entry to the venue; and 5
- “(b) provide the ~~record~~ person’s initials and date of birth and the information referred to in **paragraph (a)(ii) to (iv)** to the Secretary if requested to do so by the Secretary.”
- 86 Regulations relating to harm prevention and minimisation 10**
- (1) Section 313(1) is amended by inserting the following paragraph after paragraph (b):
- “(ba) restricting or prohibiting inducements to gamble.”
- (2) Section 313(1)(e) is amended by omitting “that may be conducted at a specified venue”. 15
- (3) Section 313(1)(e)(iii) is amended by inserting “information or” after “frequency of”.
- (4) Section 313(1) is amended by inserting the following paragraph after paragraph (e):
- “(ea) regulating the transfer of money to a gaming machine.” 20
- (5) Section 313(1)(f) is amended by omitting “to persons about particular forms of gambling or classes of gambling”.
- (6) Section 313(1) is amended by repealing paragraph (g) and substituting the following paragraph:
- “(g) restricting or prohibiting the advertising of gambling, gambling delivery mechanisms, gambling venues, gambling prizes, or any other thing related to gambling, or prescribing codes requiring such advertising to be responsible.” 25
- (7) Section 313(1) is amended by inserting the following paragraph after paragraph (h):
- “(ha) specifying minimum standards or content for problem gambling awareness training.” 30
- (8) ~~Section 313(1)(i)(ii) is amended by inserting “and EFTPOS devices” after “machines”.~~ 35
- (8) Section 313(1)(i) is amended by inserting the following subparagraph after subparagraph (ii):

“(ia) the availability of EFTPOS devices in close proximity to gambling equipment at a venue:”.

- (9) Section 313(2) is amended by repealing paragraph (d) and substituting the following paragraph:

“(d) to any particular games, or classes of games, or categories, classes, or forms of gambling.” 5

87 Regulations relating to exclusion of problem gamblers

- (1) Section 316(1)(a) is repealed and the following paragraph substituted:

“(a) prescribing 1 or more procedures to enable a venue manager, the holder of a class 4 operator’s licence or the holder of a casino operator’s licence, or a person acting on behalf of any of those persons, to identify problem gamblers (including the sources of information that must or may be considered or sought to assist in identifying problem gamblers):” 10
15

- (2) Section 316(2) is amended by omitting “must” and substituting “may”.

88 Process for developing integrated problem gambling strategy 20

Section 318(1)(e) is repealed and the following paragraph substituted:

“(e) take into account any under-recovery or over-recovery of levy (gambling sector by gambling sector) in previous levy periods; and” 25

89 Calculating levy

- (1) The formula in section 320(2) is amended by inserting “ $\pm R$ ” after “ $\times C$ ”.

- (2) Section 320(2) is amended by inserting the following item after the item relating to “D”: 30

“R is the estimated under-recovery or over-recovery of levy from a sector in previous levy periods”.

- (3) Section 320(3) is amended by omitting “calculating the levy rate under subsection (2)” and substituting “this section”.

- (4) Section 320(3)(a) is amended by omitting “in amount A,”. 35

- (5) Section 320(3)(a)(ii) is amended by omitting “section 12B of the Gaming Duties Act 1971” and substituting “section 104(5)”.
- (6) Section 320(3)(b)(i) is amended by inserting “or the department responsible for the administration of this Act” after “Department”.
- (7) Section 320(3)(c) is repealed and the following paragraph substituted:
“(c) the proposed amount of C must take into account the approximate cost to Government of the integrated problem gambling strategy in the 3-year period for which the levy is payable:”.
- (8) Section 320(3)(d)(i) is amended by inserting “or the department responsible for the administration of this Act” after “Department”.
- 90 Section 321 repealed**
Section 321 is repealed.
- 91 Section 325 repealed**
Section 325 is repealed.
- 92 New section 326A inserted**
The following section is inserted after section 326:
“326A Temporary operation of gambling equipment for research or evaluation purposes
“(1) Despite section 326, the Secretary may, by notice in the *Gazette*, declare that any gambling equipment may be temporarily operated at a class 4 venue or casino venue without complying with minimum standards if—
“(a) the operation of the gambling equipment is primarily for research or evaluation purposes for the purpose of this Act; and
“(b) the methodology of the research or evaluation proposal is approved by the department responsible for the integrated problem gambling strategy; and

- “(c) the gambling equipment used for the research or evaluation purposes is to be operated for no longer than 12 months; and
- “(d) the operation of the gambling equipment complies with all other relevant requirements of this Act. 5
- “(2) A declaration made under **subsection (1)** must include the following information and conditions:
- “(a) the purpose of the research or evaluation; and
- “(b) the commencement and expiry date of the research or evaluation; and 10
- “(c) the name of the gambling operator who will conduct the gambling at the venue at which the research or evaluation will take place; and
- “(d) the address and a description of the venue at which the gambling will be conducted; and 15
- “(e) details of the gambling equipment that may be operated at the venue for the research or evaluation purposes; and
- “(f) any other conditions that the Secretary thinks fit, including conditions relating to—
- “(i) the management of the research or evaluation: 20
- “(ii) the ownership of the data generated by the research or evaluation:
- “(iii) the management of the gambling that will be conducted, including records that must be kept and reporting requirements: 25
- “(iv) the need to minimise the possibility of problem gambling while conducting the research or evaluation:
- “(v) the need to encourage responsible gambling while conducting the research or evaluation: 30
- “(vi) the areas within a venue that are the only areas permitted for operating gambling equipment in conducting the research or evaluation; and
- “(g) any other conditions consistent with this Act that the Secretary considers will promote or ensure compliance 35 with this Act.
- “(3) The Secretary may revoke an approval given under **subsection (1)** at any time during the conduct of the research or evaluation.

“(4) The Secretary may consider a request from any person to make a declaration under **subsection (1)**.”

93 Functions of gambling inspector

- (1) Section 332(c) is amended by omitting “societies” and substituting “gambling operators”. 5
- (2) Section 332(d) is amended by inserting “or conducting gambling” after “gambling” in the first place where it appears.

94 Power of gambling inspector to require information or documents

Section 333(2) is amended by inserting “or documents” after “information” in each place where it appears. 10

95 Power of gambling inspector to enter and demand information

- (1) Section 334(1)(b) is amended by omitting “operation” and substituting “conduct”. 15
- (2) Section 334(3)(a) is amended by adding “or the conduct of gambling”.

96 Power of gambling inspector to seize equipment in public place

Section 336(6)(b) is amended by adding “or the conduct of gambling”. 20

97 Search warrants

Section 340(4)(b) is amended by adding “or the conduct of gambling”.

98 Regulations relating to infringement offences

- (1) Section 360(b)(i) is amended by omitting “\$50,000” and substituting “\$5,000”. 25
- (2) Section 360(b)(ii) is amended by omitting “\$10,000” and substituting “\$2,500”.

99 Evidence of bookmaking

Section 362(1)(b) is amended by omitting “and” and substituting “or”.

99A Information gathering

Section 365 is amended by adding the following subsection: 5

“(4) For the purposes of this section, the Secretary—

“(a) may specify the types of information that may be required under subsection (1) or (2); and

“(b) may specify the manner and form in which that information must be collected and provided to the Secretary; 10
and

“(c) may require that information to be provided regularly, at specified intervals or in respect of specified periods;
and

“(d) must make any statistical information collated by the Secretary from that information available on the Department’s Internet site, or in another electronic form that is easily accessible to the public, within a reasonable time after that information is collated.” 15

100 Power to make game rules 20

Section 367 is amended by repealing subsection (1) and substituting the following subsection:

“(1) The Secretary may make rules and amend or revoke rules made—

“(a) for playing or participating in particular games or classes of games, or categories, classes, or forms of gambling; and 25

“(b) for the systems, processes, information, and documentation associated with particular games or classes of games, or categories, classes, or forms of gambling.” 30

101 Regulations relating to forms of gambling and gambling equipment

(1) Section 368(a) is amended by inserting “, or type of act, behaviour, or transaction” after “transaction”.

(2) Section 368(b) is amended by inserting “, or type of machine, device, or thing” after “thing”. 35

102 New section 370A inserted

The following section is inserted after section 370:

“370A Regulations relating to offences

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes: 5

“(a) prescribing offences in respect of the contravention of any regulation or game rule made under this Act:

“(b) prescribing the penalty for each offence under **paragraph (a)**, which,—

“(i) in the case of a licence holder, must not exceed \$10,000: 10

“(ii) in the case of an individual, must not exceed \$5,000.”

103 Other regulations

(1) Section 371(1)(d) is amended by omitting “class 4”. 15

(2) Section 371(1) is amended by inserting the following paragraphs after paragraph (d):

“(da) specifying the time frame within which, and the accounts from which, the costs incurred in conducting gambling must be met: 20

“(db) specifying the time frame within which, and the accounts from which, funds must be applied to or distributed for authorised purposes.”.

(3) Section 371(2)(d) is amended by omitting “classes of game” and substituting “classes of games, or categories, classes, or forms of gambling”. 25

104 Consultation before regulation

Section 372(1) is amended by—

(a) inserting “**86**,” after “21,”; and

(b) inserting “**370A**,” after “370,”. 30

Part 4**Repeals and other amendments****105 Section 373 repealed**

Section 373 is repealed.

106 Savings

Section 376(2) is repealed.

107 Schedule 6 amended

(1) The item relating to s 104 in Schedule 6 is amended by omitting “104” from the first column and substituting “104(1), s 104(3)”. 5

(2) ~~The following item is inserted in Schedule 6~~ is amended by inserting the following item after the item relating to s 105:

s 105A	Management of bank accounts for gaming machine profits	\$2,500
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(3) The item relating to s 267 in Schedule 6 is amended by omitting “267” from the first column and substituting “267(2)”. 10

(4) The item relating to s 268 in Schedule 6 is amended by omitting “268” from the first column and substituting “268(1)”.

108 Schedule 7 repealed

Schedule 7 is repealed.

109 Consequential amendments to Gaming Duties Act 1971 15

(1) This section amends the Gaming Duties Act 1971.

(2) Paragraph (a) of the definition of **gaming machine operator** in section 12B is amended by inserting “corporate” before “society”.

(3) Section 12B is amended by repealing the definition of **society**. 20

(4) Section 12B is amended by inserting the following definition in its appropriate alphabetical order:

“**corporate society** has the same meaning as in section 4(1) of the Gambling Act 2003”.

(5) Paragraph (b) of the definition of **gaming wins** in section 12M 25 is amended by omitting “authorised games” and substituting “casino gambling”.

110 Consequential amendment to Gambling (Class 4 Net Proceeds) Regulations 2004

(1) This section amends the Gambling (Class 4 Net Proceeds) Regulations 2004. 30

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- (2) The heading to Part 2 is amended by omitting “conducts class 4 gambling mainly to distribute” and substituting “mainly or wholly distribute”.
- (3) Regulation 9(1) is amended by omitting “conducts class 4 gambling mainly to distribute” and substituting “mainly or wholly distributes”.

111 Consequential amendment to Gambling (Harm Prevention and Minimisation) Regulations 2004

- (1) This section amends the Gambling (Harm Prevention and Minimisation) Regulations 2004.
- (2) Regulation 12(2)(c) is amended by omitting “risks and consequences” and substituting “dangers”.

10

Legislative history

6 August 2007
22 August 2007

Introduction (Bill 131–1)
First reading and referral to Government
Administration Committee (Bill 131–2)
