

Reprint
as at 1 July 2020



Gambling (Class 4 Net Proceeds) Regulations 2004 (SR 2004/365)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 18th day of October 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 114 and 371 of the Gambling Act 2003, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the advice of the Minister of Internal Affairs after consultation with persons or organisations that appear to the Minister to be representative of the interests of persons likely to be substantially affected by these regulations, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Department of Internal Affairs.

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Regulations

- 1 Title**
These regulations are the Gambling (Class 4 Net Proceeds) Regulations 2004.
- 2 Commencement**
- (1) Regulations 7, 13, 16(b), and 17 come into force on 1 July 2005.
 - (2) The rest of these regulations come into force on 1 December 2004.
- 3 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—

Act means the Gambling Act 2003

gross proceeds, in relation to gambling, means the turnover of the gambling, less prizes, plus interest or other investment return on that turnover, plus any gain above the book value from the sale or disposal of gambling assets

net proceeds committee means a committee established under regulation 8.

- (2) Unless the context otherwise requires, terms and expressions that are not defined in these regulations but that are defined in the Act have the same meaning as in the Act.

Regulation 3(1) **gross proceeds**: replaced, on 3 March 2015, by section 130(2) of the Gambling Amendment Act 2015 (2015 No 3).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Regulation 3A: inserted, on 1 July 2020, by regulation 4 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

Part 1

Requirements for holders of class 4 operator's licence

4 Application of this Part

This Part applies to a holder of a class 4 operator's licence that conducts class 4 gambling.

5 Duty to keep documents and data

- (1) A licence holder must keep documents and data relating to the conduct of its class 4 gambling that are up to date and accurate and enable the verification of all transactions relating to the conduct of its class 4 gambling.
- (2) Without limiting subclause (1), a licence holder must ensure that documents relating to—
- (a) the application of funding to authorised purposes or distribution of funding for authorised purposes, as the case may be, are up to date and accurate on a day-to-day basis; and
 - (b) the payment of costs are up to date and accurate on a day-to-day basis.
- (3) Without limiting subclause (1), a licence holder must keep the following documents and data relating to the conduct of its class 4 gambling—
- (a) a record of its assets and liabilities; and
 - (b) a day-to-day record of its income and expenditure and the matters in respect of which income and expenditure occurs; and
 - (c) documents associated with gambling equipment; and

- (d) documents recording the application of funding to authorised purposes and grant distributions for authorised purposes, as the case may be, on a day-to day basis; and
 - (e) the licence holder's financial statements and documents relating to the annual report required under section 107 of the Act; and
 - (f) vouchers, bank statements, invoices, receipts, and other similar documents to verify the matters referred to in paragraphs (a) to (e).
- (4) A licence holder must ensure that an agreement or arrangement that it enters into for the provision of goods or services related to the conduct of class 4 gambling—
- (a) is in writing; and
 - (b) specifies the particular type of goods or services and itemises their cost.
- (5) A licence holder must retain the documents and data required under subclauses (1) to (4) for a period of not less than 7 years after the date on which they were completed or compiled.
- (6) A licence holder must retain at the class 4 venue copies of records, required by any relevant game rules, that have been completed or compiled at the venue.
- (7) The copies of records referred to in subclause (6) must be retained at the venue for at least 1 month after they are completed or compiled.

6 Management of gambling equipment

A licence holder must ensure that, in respect of gambling equipment used to conduct its class 4 gambling,—

- (a) only a vendor, technician, or service agent authorised by the licence holder is permitted to install, service, maintain, or repair the equipment; and
- (b) any modification to the equipment—
 - (i) complies with any minimum standards and is approved by the Secretary under section 326 of the Act, if relevant; and
 - (ii) is performed only by a vendor, technician, or service agent authorised by the licence holder; and
- (c) only the following persons have access to the internal components of the equipment, the cash box compartments of gaming machines, and bank note acceptor or storage devices:
 - (i) an employee or representative of the licence holder, or venue personnel when performing functions associated with the proper conduct of class 4 gambling on behalf of, and authorised by, the licence holder; and

- (ii) a vendor, technician, or service agent authorised by the licence holder when delivering, installing, servicing, maintaining, repairing, or modifying the equipment; and
- (iii) a gambling inspector or a person nominated by the Secretary; and
- (d) only the following persons have access to the logic compartment and software of the equipment:
 - (i) a vendor, technician, or service agent authorised by the licence holder when delivering, installing, servicing, maintaining, repairing, or modifying the equipment; and
 - (ii) a gambling inspector or a person nominated by the Secretary; and
- (e) an accurate and detailed record is kept of installation, servicing, maintenance, repairs, and modification of the equipment.

7 Provision of information about application or distribution of net proceeds

- (1) A licence holder must ensure that a notice is displayed at each of its class 4 venues informing players that information about the application or distribution of net proceeds to or for authorised purposes may be obtained—
 - (a) from the licence holder’s website, if a website must be maintained under Part 2; or
 - (b) by contacting the licence holder.
- (2) The notice must be displayed in the immediate area where gaming machines are located and must include the licence holder’s—
 - (a) website address, if applicable; and
 - (b) contact details.
- (3) A licence holder complies with this regulation if it includes the required information on the sign required by section 82(2) or (3)(a) of the Act.

8 Establishment of net proceeds committee

- (1) A licence holder must establish a net proceeds committee to make decisions on the application or distribution of net proceeds to or for an authorised purpose specified in the licence.
- (2) A licence holder may establish more than 1 net proceeds committee including a committee—
 - (a) relating to a particular region or district; or
 - (b) that specialises in distribution of net proceeds for particular authorised purposes.
- (3) A net proceeds committee must comprise at least 3 natural persons who are key persons in relation to the class 4 operator’s licence.

Part 2

Additional requirements for holders of class 4 operator's licence that mainly or wholly distribute net proceeds to community

Part 2 heading: amended, on 3 March 2015, by section 130(3) of the Gambling Amendment Act 2015 (2015 No 3).

9 Application of this Part

- (1) This Part applies to a holder of a class 4 operator's licence that mainly or wholly distributes net proceeds to the community.
- (2) The requirements of this Part are additional to the requirements of Part 1.

Regulation 9(1): amended, on 3 March 2015, by section 130(4) of the Gambling Amendment Act 2015 (2015 No 3).

10 Minimum amount for authorised purposes

- (1) For the purposes of section 114(1)(a) of the Act, the minimum amount for a corporate society that is a licence holder, for each of its financial years, is an amount equivalent to 40% of the specified amount.
- (2) **Specified amount**, in subclause (1), means the licence holder's gross proceeds (as defined in regulation 3(1)) for the financial year, excluding goods and services tax.
- (3) This regulation is subject to regulation 11.
- (4) This regulation does not limit or affect regulation 10 as in force on and after 1 December 2004 and until 3 September 2014 (and which, by way of explanation, prescribes a minimum amount equivalent to 37.12% of the specified amount for the licence holder's financial years that started during that period).
- (5) The minimum amount equivalent to 40% of the specified amount prescribed in subclause (1) does not apply for a licence holder's financial year ending in 2020 or 2021 (regardless of the month that the licence holder's financial year ends in).

Regulation 10: replaced, on 4 September 2014, by regulation 4 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2014 (LI 2014/264).

Regulation 10(1): replaced, on 2 September 2016, by regulation 4 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2016 (LI 2016/136).

Regulation 10(5): inserted, on 1 July 2020, by regulation 5 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

11 Timing requirements for application or distribution of proceeds for authorised purposes

- (1) A licence holder must apply to, or distribute for, authorised purposes,—
 - (a) during each of its financial years at least every quarter, all or nearly all of the net proceeds from the class 4 gambling during the financial year, and

- (b) within 3 months after the end of each of its financial years, any remainder of the net proceeds from the class 4 gambling during the financial year.
- (2) The first financial year in relation to which a licence holder must comply with subclause (1) is the financial year that commences after the commencement of this regulation.
- (3) The timing requirements for the application or distribution of proceeds in subclause (1) do not apply during a licence holder's financial year ending in 2020 or 2021 (regardless of the month that the licence holder's financial year ends in).
- (4) This regulation is subject to regulation 11A.

Regulation 11 heading: amended, on 15 September 2011, by regulation 4(1) of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2011 (SR 2011/277).

Regulation 11(1): amended, on 15 September 2011, by regulation 4(2) of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2011 (SR 2011/277).

Regulation 11(3): inserted, on 1 July 2020, by regulation 6 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

Regulation 11(4): inserted, on 1 July 2020, by regulation 6 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

11A Retention of net proceeds

- (1) A licence holder may withhold from application or distribution to or for authorised purposes an amount of net proceeds not exceeding a maximum working capital ratio of 1.5 to 1 (calculated as current assets divided by current liabilities).
- (2) The licence holder may retain that amount of net proceeds solely for the purpose of satisfying the requirement in section 52(1)(c) of the Act.
- (3) The net proceeds retained must be held in a bank account established to hold gaming machine profits in accordance with section 104 of the Act.
- (4) A licence holder withholding net proceeds must calculate its working capital ratio at least once every quarter.

Regulation 11A: inserted, on 1 July 2020, by regulation 7 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

12 Requirements relating to recovery of grants made to grant recipients

A licence holder must use its best endeavours to obtain the return of money distributed to a grant recipient if the licence holder has information that the grant recipient—

- (a) has received funding from another source for the same specific purpose as the purpose for which the money was distributed; or
- (b) has not used the money for the specific purpose for which it was distributed.

13 Requirements for maintenance of websites

- (1) A licence holder must maintain a website.
- (2) The website must include the following publicly accessible information and features:
 - (a) a grant application form that can be printed or downloaded and details of where to send the form to make an application;
 - (b) the daytime contact telephone number of the licence holder;
 - (ba) a copy of the licence holder's current annual report required to be provided to the Secretary by section 107 of the Act;
 - (c) the information required to be published under section 110(2) to (4) of the Act.
- (3) The information required to be published under section 110(4)(a) and (b) of the Act must be updated at least 6 monthly.

Regulation 13(2)(ba): inserted, on 15 September 2011, by regulation 5 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2011 (SR 2011/277).

14 Net proceeds committees that mainly distribute net proceeds to community

A net proceeds committee established by a licence holder to which this Part applies must, in addition to its functions under Part 1, distribute net proceeds for authorised purposes specified in the class 4 operator's licence.

15 Record-keeping requirements of net proceeds committees that mainly distribute net proceeds to community

A licence holder must ensure that a net proceeds committee keeps the following records:

- (a) the date that each grant is made;
- (b) the name of the grant recipient;
- (c) the specific purpose of the grant;
- (d) the amount of the grant;
- (e) the cheque number or direct debit transaction details relating to the grant.

16 Other requirements in respect of net proceeds committees that mainly distribute net proceeds to community

- (1) A licence holder to which this Part applies must ensure that a net proceeds committee—
 - (a) provides a grant applicant with reasons for the committee's decision if a grant application is declined; and
 - (b) does not approve a grant application unless it is made on a grant application form that includes the information required by regulation 17; and

- (c) does not approve a grant application unless it is supported by a competitive quote or other evidence that the sum of money sought by the applicant is appropriate; and
 - (d) does not make a grant if the committee has information indicating that the grant applicant has received funding from another source for the same specific purpose; and
 - (e) does not make a grant to reimburse money already spent by a grant applicant; and
 - (f) pays grant money direct to a grant applicant; and
 - (g) makes a grant from available net proceeds; and
 - (h) makes a grant on the condition that the grant money is used only for the specific purpose for which the application was made; and
 - (i) pays grant money by—
 - (i) a cheque made out in the name of the grant applicant and crossed “Account payee only” or “Not transferable”; or
 - (ii) a fully auditable direct bank payment.
- (2) A grant referred to in subclause (1) may be made by instalments in relation to 1 or more years (a **multi-year grant**), but only in accordance with regulation 16A.

Regulation 16(1)(g): amended, on 15 September 2011, by regulation 6(1) of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2011 (SR 2011/277).

Regulation 16(2): added, on 15 September 2011, by regulation 6(2) of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2011 (SR 2011/277).

16A Requirements relating to multi-year grants

If a net proceeds committee commits to making a multi-year grant, the licence holder must ensure that—

- (a) the commitment does not exceed 4 years; and
- (b) the grant applicant is made aware, on or before the time that the first instalment of the grant is paid, that payment of any future instalments of the grant is conditional on—
 - (i) the licence holder continuing to hold a licence; and
 - (ii) the licence holder continuing to have available net proceeds; and
 - (iii) the specific authorised purpose for which the grant was made continuing to be lawful; and
- (c) each instalment of the grant is re-confirmed by the net proceeds committee before payment; and
- (d) the grant applicant provides the net proceeds committee with documentary evidence that previous instalments of the grant were spent for its intended purpose; and

- (e) it discloses the existence of multi-year grants it has entered into—
 - (i) in its current annual report required to be provided to the Secretary under section 107 of the Act; and
 - (ii) with the information required to be published under section 110(2) to (4) of the Act.

Regulation 16A: inserted, on 15 September 2011, by regulation 7 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2011 (SR 2011/277).

17 Minimum requirements for grant application forms

- (1) A licence holder to which this Part applies must ensure that its application form for grants from net proceeds requires the following information from a grant applicant:
 - (a) the applicant's name and contact details:
 - (b) the legal personality of the applicant and, if the applicant is not a natural person, the purpose of the applicant and the name and contact details (including a street address) of a contact person:
 - (c) specific reasons for the grant application:
 - (d) the total amount of money sought by the applicant:
 - (e) evidence supporting the total amount sought (for example, competitive quotes for goods or services to be paid for by the grant):
 - (f) whether the applicant has applied for funds for the same specific purpose from another source:
 - (g) whether the applicant is registered for goods and services tax and, if so, its goods and services tax number:
 - (h) the applicant's bank account details.
- (2) A licence holder must ensure that its application form for grants from net proceeds requires,—
 - (a) if the applicant is not a natural person, 2 representatives of the applicant to make declarations that—
 - (i) the information provided in the application form is true and correct to the best of their knowledge; and
 - (ii) they have the authority to make the application on behalf of the applicant; or
 - (b) if the applicant is a natural person, that the applicant makes a declaration that the information provided in the application form is true and correct to the best of his or her knowledge.
- (2A) The declarations in an application form referred to in subclause (2) need not be verified by way of a statutory declaration in accordance with sections 8, 9, and 11 of the Oaths and Declarations Act 1957 and are sufficient if followed by,—

- (a) if the applicant is not a natural person, the usual signatures of 2 representatives of the applicant; or
- (b) if the applicant is a natural person, the usual signature of the applicant.
- (3) A licence holder may require a grant applicant to provide further relevant information.
- (4) A licence holder must ensure that its application form for grants from net proceeds makes provision to record whether the application is approved or declined and, if a grant application is approved,—
 - (a) the amount approved; and
 - (b) the date of the approval; and
 - (c) the cheque number or details of the direct debit corresponding to the grant; and
 - (d) the grant number; and
 - (e) the signatures of the persons approving the grant.

Regulation 17(2A): inserted, on 4 September 2014, by regulation 5 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2014 (LI 2014/264).

Schedule 1

Transitional, savings, and related provisions

r 3A

Schedule 1: inserted, on 1 July 2020, by regulation 8 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

Part 1

Provisions relating to Gambling (Class 4 Net Proceeds) Amendment Regulations 2020

Schedule 1 Part 1: inserted, on 1 July 2020, by regulation 8 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

1 Interpretation

In this Part, **amendment regulations** means the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020.

Schedule 1 clause 1: inserted, on 1 July 2020, by regulation 8 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

2 Retrospective application of regulation 10(5)

Regulation 10(5), as inserted by the amendment regulations, applies between 25 March 2020 and the commencement of this clause as if it were in force during that time.

Schedule 1 clause 2: inserted, on 1 July 2020, by regulation 8 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

3 Retrospective application of regulation 11(3)

Regulation 11(3), as inserted by the amendment regulations, applies between 25 March 2020 and the commencement of this clause as if it were in force during that time.

Schedule 1 clause 3: inserted, on 1 July 2020, by regulation 8 of the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136).

Diane Morcom,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 21 October 2004.

Reprints notes

1 *General*

This is a reprint of the Gambling (Class 4 Net Proceeds) Regulations 2004 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Gambling (Class 4 Net Proceeds) Amendment Regulations 2020 (LI 2020/136)
Gambling (Class 4 Net Proceeds) Amendment Regulations 2016 (LI 2016/136)
Gambling Amendment Act 2015 (2015 No 3): section 130
Gambling (Class 4 Net Proceeds) Amendment Regulations 2014 (LI 2014/264)
Gambling (Class 4 Net Proceeds) Amendment Regulations 2011 (SR 2011/277)