



# Gambling Act 2003

Public Act 2003 No 51  
Date of assent 18 September 2003  
Commencement see section 2

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

**1 Title**

This Act is the Gambling Act 2003.



## Part 1

### Preliminary provisions

#### 2 Commencement

- (1) The following sections come into force on the day after the date on which this Act receives the Royal assent:
  - (a) sections 10 to 13; and
  - (b) section 30(b); and
  - (c) section 34; and
  - (d) section 84; and
  - (e) sections 86 to 93; and
  - (f) section 94(1), (2)(a), and (3); and
  - (g) section 97; and
  - (h) sections 98 to 103; and
  - (i) section 121; and
  - (j) section 180; and
  - (k) section 314; and
  - (l) sections 317 to 325; and
  - (m) section 372 as far as it relates to section 314; and
  - (n) section 374 as far as it relates to the items in Schedule 8 relating to the Racing Act 2003 (except new section 61); and
  - (o) section 376(2); and
  - (p) section 377; and
  - (q) Schedule 7 as far as it relates to the Casino Control Act 1990; and
  - (r) section 4(1) as far as it relates to the sections specified in paragraphs (a) to (q).
- (2) Schedule 7 as far as it relates to the Gaming and Lotteries Act 1977 comes into force on 1 October 2003.
- (3) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made appointing different dates for different provisions.

#### 3 Purpose

The purpose of this Act is to—

- (a) control the growth of gambling; and
- (b) prevent and minimise the harm caused by gambling, including problem gambling; and
- (c) authorise some gambling and prohibit the rest; and
- (d) facilitate responsible gambling; and

- (e) ensure the integrity and fairness of games; and
- (f) limit opportunities for crime or dishonesty associated with gambling; and
- (g) ensure that money from gambling benefits the community; and
- (h) facilitate community involvement in decisions about the provision of gambling.

#### 4 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**allocation**, in relation to an instant game (including a New Zealand lottery that is an instant game), means the determination of the winning tickets or the money or other reward that tickets bear, conducted before or simultaneously with the sale of tickets, randomly or wholly by chance

**approved surety**—

- (a) means a person or entity declared by the Secretary, by notice in the *Gazette*, to be an approved surety for the purpose of section 195; and
- (b) includes a registered bank

**associated person** means a person who is approved as an associated person for a particular casino by the Secretary or the Gambling Commission, as the case may be

**authorised chip** means a chip that satisfies any applicable minimum operating standards specified by the Secretary under section 141

**authorised purpose** means,—

- (a) for class 1 gambling, class 2 gambling, and class 3 gambling, any of the following purposes:
  - (i) a charitable purpose;
  - (ii) a non-commercial purpose that is beneficial to the whole or a section of the community;
  - (iii) promoting, controlling, and conducting race meetings under the Racing Act 2003, including the payment of stakes;
  - (iv) an electioneering purpose;
- (b) for class 4 gambling, any of the purposes specified in paragraph (a)(i) to (iii)

**authorised representative**, in relation to a society, means a natural person employed or engaged by the society for, mainly, non-gambling tasks

**Authority** means the Casino Control Authority established by section 7 of the Casino Control Act 1990

**Board** means the New Zealand Lottery Grants Board established by section 116A of the Gaming and Lotteries Act 1977 and continued in existence under section 272 of this Act

**bookmaking**—

- (a) means running a business or making, or endeavouring to make, a living, totally or partly, from any of the following activities:
  - (i) taking or negotiating bets:
  - (ii) organising pool betting:
  - (iii) matching gamblers:
  - (iv) laying or offering odds:
  - (v) offering to bet with more than 1 person; but
- (b) does not include—
  - (i) the activities of the New Zealand Racing Board or a racing club under the Racing Act 2003; or
  - (ii) private gambling; or
  - (iii) casino gambling

**broadcaster** and **broadcasting** have the same meanings as in section 2(1) of the Broadcasting Act 1989

**casino count**, in relation to a casino, means a count of money paid for the right to participate in casino gambling

**casino gambling** has the meaning given by section 34

**casino licence** means a casino operator's licence or a casino venue licence

**casino operator's licence** means a licence granted under section 130; and includes an existing casino operator's licence

**casino venue**, in relation to a licensed casino,—

- (a) means the area defined as constituting the casino in the casino venue licence; and
- (b) includes any building or room in which games are conducted and played and in which money counting, surveillance, storage, and other activities related to the conduct and playing of games are carried on

**casino venue agreement** means an arrangement or agreement made between the holder of a casino venue licence and the

holder of a casino operator's licence to operate the casino to which the casino venue licence relates

**casino venue licence** means an existing casino premises licence that continues in existence under section 122

**chip** means a token used, or capable of being used, in the conduct of casino gambling instead of money

**class 3 gambling** has the meaning given by section 27

**class 3 operator's licence** means a licence granted under section 37

**class 4 gambling** has the meaning given by section 30

**class 4 operator's licence** means—

- (a) a licence granted under section 52; or
- (b) an existing gaming machine licence

**class 4 venue** means a place used to conduct class 4 gambling

**class 4 venue agreement** means an agreement or agreements between the holder of, or applicant for, a class 4 operator's licence or a class 4 venue licence and the venue operator that sets out their respective rights and responsibilities

**class 4 venue licence** means—

- (a) a licence granted under section 67; or
- (b) a site approval

**club** means a voluntary association of persons combined for a purpose other than personal gain

**commission** means a payment that is based directly or indirectly on a percentage of the turnover in a gambling activity

**communication device** means a machine, device, or thing for communicating at a distance and using any technology (including telecommunication, radiocommunication, and broadcasting technology)

**corporate society** means 1 society that is—

- (a) incorporated under the Incorporated Societies Act 1908; or
- (b) incorporated as a board under the Charitable Trusts Act 1957; or
- (c) a company incorporated under the Companies Act 1993 that—
  - (i) does not have the capacity or power to make a profit; and

- (ii) is incorporated and conducted solely for authorised purposes; or
- (d) a working men's club registered under the Friendly Societies and Credit Unions Act 1982

**counterfeit chip** includes an authorised chip that has been altered in any manner so as to resemble another authorised chip

**crime involving dishonesty** has the same meaning as in section 2(1) of the Crimes Act 1961

**Department** means the Department of Internal Affairs or any other department of State that has assumed responsibility for the administration of this Act

**draw**, in relation to a lottery, means to determine by lot, or wholly by chance, the participants entitled to a prize

**electioneering purpose** means the purpose of a group or an individual standing for election to public office (including, for example, candidates in a national or local body election or candidates for election to community trusts or energy trusts)

**electronic monitoring system** means an electronic or computer system or communication device that is designed or adapted for use to—

- (a) receive or send data from or to a gaming machine concerning the security, accounting, or operation of the gaming machine and any games or features played on, or associated with, the gaming machine; and
- (b) remotely enable or disable a gaming machine

**existing casino agreement** means a casino agreement approved under section 42 of the Casino Control Act 1990

**existing casino licence** has the same meaning as the term casino licence in section 2(1) of the Casino Control Act 1990

**existing casino operator's licence** means a casino operator's licence granted under section 37 of the Casino Control Act 1990

**existing casino premises licence** means a casino premises licence granted under section 31 of the Casino Control Act 1990

**existing gaming machine licence** means a licence authorising a society to conduct gambling by way of gaming machines granted under section 8 of the Gaming and Lotteries Act 1977

**existing licensed promoter's licence** means a licensed promoter's licence granted under section 47 of the Gaming and Lotteries Act 1977

**gambling**—

- (a) means paying or staking consideration, directly or indirectly, on the outcome of something seeking to win money when the outcome depends wholly or partly on chance; and
- (b) includes a sales promotion scheme; and
- (c) includes bookmaking; and
- (d) includes betting, paying, or staking consideration on the outcome of a sporting event; but
- (e) does not include an act, behaviour, or transaction that is declared not to be gambling by regulations made under section 368

**gambling area** means,—

- (a) for a class 4 venue, that part of the venue that is specified by the Secretary, under section 70(2)(h), as an area where class 4 gambling is permitted or, if the Secretary does not specify an area under that section, the class 4 venue; or
- (b) for a casino venue, that part of the venue that is specified by the Gambling Commission under section 139 or the Casino Control Authority under the Casino Control Act 1990 as an area where casino gambling is permitted or, if the Gambling Commission does not specify an area under that section or the Casino Control Authority has not specified an area, the casino venue

**Gambling Commission** means the commission established by section 220

**Gambling Commissioner** means a person appointed under section 221 as a member of the Gambling Commission

**gambling equipment**—

- (a) means a machine, device, or thing used remotely or directly to conduct or monitor gambling; and
- (b) includes equipment and things associated with the items specified in paragraph (a); and
- (c) includes a gaming machine; and
- (d) includes a machine, device, or thing declared to be gambling equipment by regulations made under section 368; but

- (e) does not include a machine, device, or thing declared not to be gambling equipment by regulations made under section 368

**gambling inspector** means a person who is appointed as an inspector under section 330

**gambling operator** means a person or class of person who conducts gambling

**game rules** means rules made by the Secretary for particular forms of gambling under section 367

**gaming machine**—

- (a) means a device, whether totally or partly mechanically or electronically operated, that is adapted or designed and constructed for use in gambling; and
- (b) includes a device for gambling that is conducted partly by a machine and partly by other means; and
- (c) includes a device, or type of device, that is declared to be a gaming machine by regulations made under section 368; but
- (d) does not include—
  - (i) a device used only to draw a lottery; or
  - (ii) a random selection device used in a game of housie; or
  - (iii) a device used only to dispense tickets that is not capable of being used to decide the outcome of gambling; or
  - (iv) a communication device that is used both to dispense tickets in and draw a lottery that is a sales promotion scheme; and
- (e) does not include a device, or type of device, that is declared not to be a gaming machine by regulations made under section 368; and
- (f) does not include a device operated by the Lotteries Commission

**government agency** means a government department or Crown entity

**harm**—

- (a) means harm or distress of any kind arising from, or caused or exacerbated by, a person's gambling; and
- (b) includes personal, social, or economic harm suffered—
  - (i) by the person; or

- (ii) the person's spouse, partner, family, whanau, or wider community; or
- (iii) in the workplace; or
- (iv) by society at large

**housie**—

- (a) means gambling that satisfies any applicable game rules, and where—
  - (i) the numbers are selected randomly and announced to participants; and
  - (ii) the participants mark or cover the numbers announced on their own cards; and
  - (iii) the winners are participants who mark or cover any given arrangement of the numbers on their card and announce that fact openly to the other participants and to the organisers; and
- (b) includes any other game played in a similar manner to that specified in paragraph (a)

**illegal gambling** means gambling described as illegal in section 9 or section 17(2)

**infringement offence** means—

- (a) an offence against a section listed in Schedule 6:
- (b) a breach of any regulations made under this Act that is prescribed as an infringement offence

**instant game** means gambling when a winning ticket or the money or other reward that a winning ticket bears is determined, before or simultaneously with the sale of tickets, randomly or wholly by chance

**junket** means entering New Zealand for a limited period of time with the primary purpose of gambling in a casino where—

- (a) the arrangements are made, at least in part, by a junket organiser; and
- (b) all, or a substantial part, of the costs of transportation, food, and accommodation for the person entering New Zealand is paid by or on behalf of the holder of a casino licence

**junket organiser** means a person who organises a junket for financial gain

**key person** means,—



- (a) in relation to a class 4 operator's licence, a person who—
  - (i) is a trustee or other officer of a corporate society that is an applicant for, or holder of, a class 4 operator's licence:
  - (ii) is the chief executive (or performs that function) of a corporate society that is an applicant for, or holder of, a class 4 operator's licence:
  - (iii) exercises significant influence in the management of a corporate society that is an applicant for, or holder of, a class 4 operator's licence; and
- (b) in relation to a class 4 venue licence,—
  - (i) a venue manager:
  - (ii) venue personnel:
  - (iii) a venue operator:
  - (iv) a person who is a director, chief executive, or senior manager of a venue operator, or any other person who the Secretary reasonably believes to have a significant interest in the management, ownership, or operation of a venue operator:
  - (v) a person contracted to service gambling equipment at a class 4 venue; and
- (c) in relation to a licensed promoter's licence, a person who—
  - (i) is a director of, or holds office in, a company that is an applicant for, or holder of, a licensed promoter's licence:
  - (ii) is the chief executive (or performs that function) of a company that is the applicant for, or holder of, a licensed promoter's licence:
  - (iii) exercises significant influence in relation to a natural person who is the applicant for, or holder of, a licensed promoter's licence

**licensed promoter** means a person who is granted a licence under section 201 to promote a class 3 gambling activity on behalf of a society

**licensed promoter's agreement** means the agreement between a society and a licensed promoter referred to in section 188(3)

**licensed promoter's licence** means a licence granted under section 201

**local authority** has the same meaning as in the Local Government Act 2002

**Lotteries Commission** means the New Zealand Lotteries Commission established under section 72 of the Gaming and Lotteries Act 1977 and continued in existence under section 236 of this Act

**lottery**—

- (a) means a scheme or device involving multiple participants for which—
  - (i) a person pays consideration to participate, directly or indirectly; and
  - (ii) prizes of money are distributed according to a draw that takes place after all participants have entered; and
- (b) includes lotto, raffles, and sweepstakes

**lottery prize fund account** means the account referred to in section 252

**minimum standards** means minimum standards for the design, manufacture, and performance of gambling equipment prescribed by the Secretary under section 327

**Minister** means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant Part or provision of this Act

**money** includes—

- (a) money's worth, whether or not convertible into money; and
- (b) the right to money; and
- (c) deferral or cancellation of some or all of an obligation to pay money

**net proceeds**, in relation to gambling, means the turnover of the gambling plus interest or other investment return on that turnover plus proceeds from the sale of fittings, chattels, and gambling equipment purchased from that turnover or investment return less—

- (a) the actual, reasonable, and necessary costs (including prizes), levies, and taxes incurred in conducting the gambling; and

- (b) the actual, reasonable, and necessary costs incurred in complying with whichever of the following apply to the gambling:
  - (i) this Act or any other relevant Act;
  - (ii) an operator's licence;
  - (iii) a venue licence

**New Zealand lottery**—

- (a) means a form of gambling promoted by the Lotteries Commission under subpart 2 of Part 3 by means of—
  - (i) a lottery; or
  - (ii) a prize competition; or
  - (iii) an instant game; or
  - (iv) a combination of any of those 3 things; and
- (b) includes any other gambling activity specified by regulations made under section 368 as a New Zealand lottery; but
- (c) does not include any other gambling activity excluded by regulations made under section 368 from being a New Zealand lottery

**occupier**—

- (a) means a person who is entitled to occupy a place; and
- (b) includes—
  - (i) the owner of the place; and
  - (ii) a person who acts as if the person were the occupier of the place; and
  - (iii) a person who is involved in the care, management, or control of the place, whether or not the person is the physical occupier

**operator's licence** means a class 3 operator's licence, a class 4 operator's licence, or a casino operator's licence

**organiser**, in relation to a class 2 or class 3 gambling activity, means the natural person who conducts the activity

**overseas gambling advertisement** means a form of communication that—

- (a) publicises or promotes gambling that is outside New Zealand or a gambling operator who is outside New Zealand; or
- (b) is reasonably likely to induce persons to gamble outside New Zealand

**owner** means the person who is entitled to receive the rent for the place or who would be entitled to receive it if the place were let

**place** includes—

- (a) a building, structure, or tent, whether fully or partly constructed; and
- (b) a room in a building or structure; and
- (c) a court or a mall; and
- (d) land; and
- (e) a vehicle, vessel, or aircraft; and
- (f) a caravan or a trailer or other conveyance

**prescribed fee** means a fee prescribed by regulations made under section 370

**previous gaming Acts** means the Gaming and Lotteries Act 1977 and the Casino Control Act 1990

**private gambling** means gambling by persons at a private residence in the following circumstances:

- (a) all the stakes placed are distributed as reward to the winners; and
- (b) the gambling is, primarily, a social event or entertainment; and
- (c) no remuneration, commission, or reward is paid to, or received by, a person for conducting the gambling; and
- (d) persons who do not live at the residence are not induced, formally or informally, to participate in the gambling by advertisement, notice, or other means; and
- (e) if the gambling involves playing or staking against a person who has the role of “bank”, that role passes from one person to another by chance or by regular rotation among all persons, without charge or other conditions; and
- (f) all participants have an equal chance of winning; and
- (g) no person other than a participant has a chance of winning; and
- (h) no one pays for admission, directly or indirectly; and
- (i) there are no deductions of any kind from a participant’s stakes or winnings

**prize competition** means a scheme or competition—

- (a) for which direct or indirect consideration is paid to participate; and

- (b) that distributes prizes of money or in which participants seek to win money; and
- (c) for which the result is determined partly by chance and partly by the performance by the participant of an activity of a kind that may be performed more readily by a participant possessing or exercising some knowledge or skill, whether or not it may also be performed successfully by chance

**problem gambler** means a person whose gambling causes harm or may cause harm

**profits**, in relation to New Zealand lotteries, means an amount calculated by subtracting from New Zealand lottery proceeds expenses incurred in producing those proceeds including, but not limited to,—

- (a) the amounts of prize funds set in respect of New Zealand lotteries by any rules made under section 243; and
- (b) all reasonable expenses incurred or expected to be incurred in conducting New Zealand lotteries; and
- (c) all duties and taxes payable in respect of New Zealand lotteries; and
- (d) the problem gambling levy payable in respect of New Zealand lotteries

**property** is defined in section 298(2) for the purpose of that section

**publish** means—

- (a) insert or publish in a newspaper or other periodical published or distributed in New Zealand; or
- (b) send to a person by any means; or
- (c) deliver to a person or leave at a place owned or occupied by a person; or
- (d) broadcast; or
- (e) include in a film or video; or
- (f) include on a disk for use with a computer; or
- (g) convey by electronic medium; or
- (h) distribute by any means; or
- (i) display by way of a sign, notice, poster, or other means; or
- (j) store electronically in a way that it is accessible to the public; or

- (k) bring to the notice of the public in New Zealand in any other manner

**racing club** has the same meaning as in section 5(1) of the Racing Act 2003

**racing code** has the same meaning as in section 5(1) of the Racing Act 2003

**registered bank** has the meaning given by section 2(1) of the Reserve Bank of New Zealand Act 1989

**relevant offence** means—

- (a) a crime involving dishonesty; or
- (b) a crime considered by the Secretary or the Gambling Commission, as the case may be, to be relevant and serious; or
- (c) an offence against this Act, the previous gaming Acts, the Racing Act 2003, or the Racing Act 1971; or
- (d) an offence against a regulation made under the previous gaming Acts, the Racing Act 2003, or the Racing Act 1971

**remote interactive gambling**—

- (a) includes gambling by a person at a distance by interaction through a communication device; but
- (b) does not include—
  - (i) gambling promoted by the Lotteries Commission; or
  - (ii) gambling authorised under the Racing Act 2003; or
  - (iii) gambling by a person in New Zealand conducted by a gambling operator located outside New Zealand; or
  - (iv) a sales promotion scheme that is in the form of a lottery and is conducted in New Zealand

**responsible gambling** means lawful participation in gambling that is—

- (a) lawful, fair, and honest; and
- (b) conducted—
  - (i) in a safe and secure environment; and
  - (ii) without pressure or devices designed to encourage gambling at levels that may cause harm; and

- (iii) by informed participants who understand the nature of the activity and do not participate in ways that may cause harm

**responsible Ministers** means the Minister responsible for the department developing and implementing the integrated problem gambling strategy and the Minister responsible for this Act

**sales promotion scheme** means gambling that does not involve a gaming machine nor a prize prohibited under section 17, used by a creator, distributor, or vendor of goods or services to promote the sale of those goods or services if—

- (a) participation in the gambling requires a person to purchase the goods or services promoted for a price not exceeding the usual retail price; and
- (b) the date or period on or over which the outcome of the gambling will be determined is clear to the participant at the time and place of sale; and
- (c) the person is not required to pay direct or indirect consideration other than to purchase the goods or services promoted; and
- (d) the outcome is determined—
  - (i) randomly or wholly by chance; or
  - (ii) partly by chance (whether chance plays the greater or lesser part) and partly by the application of some knowledge or skill

**Secretary** means the Secretary for Internal Affairs

**site approval** means that part of an existing gaming machine licence that approves a place for gambling with gaming machines

**society** means an association of persons established and conducted entirely for purposes other than commercial purposes

**standard form** means a form issued by the Secretary under section 366

**territorial authority**—

- (a) has the same meaning as in section 5(1) of the Local Government Act 2002; but
- (b) does not include the Minister of the Crown who is, for the time being, responsible for that Act

**territorial authority consent** means a consent granted by a territorial authority under section 100

**territorial authority district** means a district in respect of which a territorial authority is constituted

**ticket** means a document or thing that is evidence of, or signifies participation in, gambling or, if there is no document or thing, includes the right to participate

**turnover** means the aggregate stakes in a gambling activity

**venue licence** means a class 4 venue licence or a casino venue licence

**venue manager** means 1 natural person responsible for supervising the gambling and venue personnel at a class 4 venue and for banking the proceeds of class 4 gambling

**venue operator** means the occupier of a class 4 venue to which section 65(3) applies who owns the primary business at the venue

**venue personnel** means a person who works at a class 4 venue or a casino and whose work involves dealing with gambling equipment, gamblers, or the proceeds of gambling.

- (2) For the purposes of this Act, an **evidence of age document** means a document as defined in section 2A of the Sale of Liquor Act 1989.
- (3) References to this Act include regulations made or continued under this Act.

## 5 **Meaning of conducting gambling**

In this Act, **conducting gambling** includes any of the following activities:

- (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:
- (d) promoting gambling:
- (e) assisting in activities described in paragraphs (a) to (d).

## 6 **Multi-terminal and multi-player gaming machines**

In this Act, each terminal or player station of a multi-terminal or multi-player gaming machine must be treated as 1 gaming machine.



**7 Meaning of significant influence in casino**

- (1) A person has a **significant influence in a casino** if the person—
- (a) is or will be a director of the holder of, or applicant for, or proposed transferee or alienee of, a casino licence for the casino; or
  - (b) is or will be employed or engaged by the holder of, or applicant for, or proposed transferee or alienee of, a casino licence for the casino as the chief executive or a senior manager of the casino; or
  - (c) owns or will own shares, directly or indirectly, in the holder of, or applicant for, or proposed transferee or alienee of, a casino licence for the casino that confer control of 20% or more of the voting rights of shareholders of any class in the holder, applicant, or proposed transferee or alienee.
- (2) A significant influence in a casino includes any influence that the Secretary or the Gambling Commission (as the case may be) considers to be a significant interest in the management, ownership, or operation of a casino, however acquired or to be acquired.
- (3) Subsection (1) does not limit what the Secretary or the Gambling Commission, as the case may be, considers to be a significant influence under subsection (2).
- (4) In subsection (1)(a), the term **director** includes a person described in section 126(1) of the Companies Act 1993.

**8 Secretary may seek information to assess influence**

- (1) If the Secretary believes, on reasonable grounds, that a particular person may have a significant influence in a casino, the Secretary may advise that person and the holder of, or applicant for, or proposed transferee or alienee of, the relevant casino licence of that belief.
- (2) The person believed to have a significant influence in a casino or other person to whom the Secretary has given advice may provide the Secretary with information and submissions about that belief within 1 month of receiving advice of that belief.
- (3) The Secretary may then determine whether or not the person has a significant influence in a casino, having regard to submissions and information provided under subsection (2).

- (4) A determination under subsection (3) that a person has a significant influence in a casino from a particular date does not prevent the Secretary deciding that a person had a significant influence before that date.

## **Part 2 Gambling**

### Subpart 1—Prohibitions and authorisations

#### **9 Gambling prohibited**

- (1) Gambling is prohibited and illegal unless it is—
- (a) authorised by or under this Act and complies with this Act and any relevant licence, game rules, and minimum standards; or
  - (b) authorised by or under the Racing Act 2003 and complies with that Act and any regulations made under it; or
  - (c) private gambling.
- (2) The following types of gambling are prohibited and illegal and are not authorised by and may not be authorised under this Act:
- (a) bookmaking;
  - (b) remote interactive gambling.

#### **10 No more casinos**

- (1) No new casino venue licences may be granted under this Act.
- (2) However, an existing casino venue licence may be renewed.

#### **11 No increase in casino gambling**

A person must not increase the opportunities for casino gambling.

#### **12 What is increase in casino gambling**

- (1) Decisions on what constitutes an increase in the opportunities for casino gambling are a function and responsibility of the Casino Control Authority, until section 297 of this Act comes into force, and of the Gambling Commission after that.
- (2) An increase in the opportunities for casino gambling includes but is not limited to—

- (a) an increase in the number of gaming machines unless the increase is accompanied by a reduction in the number of table games that the Casino Control Authority, or the Gambling Commission, believes is proportionate:
  - (b) an increase in the number of table games unless the increase is accompanied by a reduction in the number of gaming machines that the Casino Control Authority, or the Gambling Commission, believes is proportionate:
  - (c) an increase in total player space at table games unless the increase is accompanied by a reduction in other opportunities for casino gambling that the Casino Control Authority, or the Gambling Commission, believes is proportionate.
- (3) Opportunities for casino gambling are not increased—
- (a) by increases, in the Auckland casino, that comply with the Order for the Variation of Conditions of Casino Premises Licence dated 6 December 2002:
  - (b) by gambling conducted by the New Zealand Racing Board referred to in section 120.

### **13 No compensation**

No compensation is payable by the Crown to any person for any loss or damage arising from the enactment or operation of sections 10 to 12.

### **14 Legality of gambling contracts**

- (1) Every contract for, or relating to, illegal gambling is an illegal contract for the purposes of the Illegal Contracts Act 1970, and that Act applies accordingly.
- (2) Gambling contracts authorised by or under this Act are enforceable at law.

### **15 Providing credit for gambling prohibited**

- (1) A person conducting gambling must not offer or provide credit if the person knows or ought to know that the credit is intended to be used for gambling.
- (2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$10,000.

- (3) Subsection (1) does not apply to credit offered or provided by the holder of a casino operator's licence to a person in circumstances that have been approved by—
  - (a) the Authority under section 66 of the Casino Control Act 1990; or
  - (b) the Gambling Commission under subsection (4).
- (4) The Gambling Commission may approve circumstances in which an offer or provision of credit may be made by the holder of a casino operator's licence to a person.

#### **16 Advertising overseas gambling prohibited**

- (1) A person must not publish or arrange to publish, in New Zealand, an overseas gambling advertisement.
- (2) Subsection (1) does not apply to publishing or arranging to publish—
  - (a) a health message concerning gambling; or
  - (b) an advertisement for services to prevent, minimise, or treat harm; or
  - (c) a message about preventing, minimising, or treating harm; or
  - (d) an advertisement for gambling equipment intended for distribution only to buyers of gambling equipment; or
  - (e) an overseas gambling advertisement in which the publicising or promotion of gambling or a gambling operator is incidental to the purpose of the advertisement.
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- (4) The Governor-General may, by Order in Council, restrict the application of this section, if satisfied that an order is necessary to enable New Zealand to comply with its international obligations relating to trade in services that are or will become binding on New Zealand.

#### **17 Regulations may specify property that must not be used to reward winners**

- (1) The Governor-General may, by Order in Council, make regulations that specify property or a class of property that must not be—
  - (a) offered as a reward for gambling; or
  - (b) used to reward a winner of gambling.

- (2) Gambling that offers or uses property or a class of property as a reward in breach of regulations made under subsection (1) is illegal gambling.
- (3) This section overrides anything in this Act to the contrary.
- (4) A notice given under section 70 of the Gaming and Lotteries Act 1977 continues in force (despite the repeal of that Act) until a regulation made under subsection (1) replaces it.

Compare: 1997 No 34 s 70

## **18 Sales promotion schemes authorised**

A sales promotion scheme is authorised by this Act.

## **19 Offences**

- (1) A person who does any of the following things commits an offence:
  - (a) participates in illegal gambling;
  - (b) is, without reasonable excuse, at a place where illegal gambling is occurring;
  - (c) conducts illegal gambling;
  - (d) offers or provides credit if the person knows or ought to know that the credit may be used to commit an offence under paragraph (a) or paragraph (c);
  - (e) accepts credit from a person with the intention that it be used to commit an offence under paragraph (a) or paragraph (c);
  - (f) makes a direct or indirect pecuniary gain from illegal gambling other than as a direct participant;
  - (g) promotes illegal gambling or assists in doing so;
  - (h) causes or permits a place to be used for illegal gambling;
  - (i) advertises illegal gambling—
    - (i) to inform the public of places where illegal gambling takes place or will take place; or
    - (ii) to invite the public to participate in illegal gambling or to seek information about opportunities to do so; or
    - (iii) to invite the public to commit money for illegal gambling or to seek information about opportunities to commit money for illegal gambling;

- (j) provides or installs gambling equipment if the person knows or ought to know that it is intended to be used for illegal gambling.
- (2) Every person who commits an offence against subsection (1)(a) or (b) is liable on summary conviction to a fine not exceeding \$1,000.
- (3) Every person who commits an offence against subsection (1)(c) to (j) is liable on summary conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$20,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$50,000.

## Subpart 2—Classes of gambling

### *Overview*

#### **20 Overview**

- (1) This Act divides gambling into the following 6 legal classes:
  - (a) class 1 gambling (no licence required):
  - (b) class 2 gambling (no licence required):
  - (c) class 3 gambling (class 3 operator's licence required):
  - (d) class 4 gambling (class 4 operator's and venue licences required):
  - (e) casino gambling (casino operator's and venue licences required):
  - (f) gambling conducted by the Lotteries Commission.
- (2) Additionally, this Act—
  - (a) authorises private gambling; and
  - (b) authorises sales promotion schemes; and
  - (c) recognises gambling authorised by or under the Racing Act 2003.

#### **21 Secretary may categorise gambling**

- (1) The Secretary may declare, by notice in the *Gazette*, that gambling that is ordinarily within a class is gambling of another class if—
  - (a) the gambling does not satisfy the game rules that apply to the class into which the gambling would ordinarily fall; and
  - (b) the Secretary considers that the level of risk associated with the gambling justifies the declaration.

- (2) A notice under subsection (1)—
- (a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989; but
  - (b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

*Class 1 gambling*

**22 Meaning of class 1 gambling**

In this Act, **class 1 gambling** is gambling that satisfies the following criteria:

- (a) either—
  - (i) the turnover of the gambling plus interest or other investment return on those proceeds less any actual, reasonable, and necessary costs incurred in conducting the gambling is applied to reward the winners of the gambling if the gambling is conducted by individuals; or
  - (ii) the net proceeds from the gambling are applied or distributed to authorised purposes if the gambling is conducted by a society; and
- (b) the total value of prizes offered or awarded to the winners of the gambling activity, or to the winners in 1 session (if the gambling is conducted in sessions of more than 1 game), does not exceed \$500; and
- (c) the potential turnover involved in the gambling activity, or in 1 session of gambling (if the gambling is conducted in sessions of more than 1 game), does not exceed \$500; and
- (d) if the gambling is conducted in sessions of more than 1 game, a society conducts no more than 1 session per day; and
- (e) the gambling satisfies relevant regulations and game rules; and
- (f) the gambling does not utilise or involve a gaming machine, directly or indirectly; and
- (g) no commission is offered or paid to, or received by, a person for conducting the gambling; and
- (h) no remuneration is offered or paid to, or received by, a person for conducting the gambling, except a caller of housie or an authorised representative of a society if the gambling is conducted by a society; and

- (i) the Secretary has not categorised the gambling as another class of gambling.

### 23 No licence required

Class 1 gambling may be conducted by a person without a licence under this Act.

#### *Class 2 gambling*

### 24 Meaning of class 2 gambling

In this Act, **class 2 gambling** is gambling that satisfies the following criteria and the requirements specified in section 25:

- (a) the net proceeds from the gambling are applied or distributed to authorised purposes; and
- (b) the total value of prizes offered or awarded to the winners of the gambling activity, or to the winners in 1 session (if the gambling is conducted in sessions of more than 1 game), exceeds \$500 but does not exceed \$5,000; and
- (c) the potential turnover involved in the gambling activity, or in 1 session of gambling (if the gambling is conducted in sessions of more than 1 game), exceeds \$500 but does not exceed \$25,000; and
- (d) if the gambling is conducted in sessions of more than 1 game, a society conducts no more than 1 session per week; and
- (e) the gambling satisfies relevant regulations and game rules; and
- (f) the gambling does not utilise or involve a gaming machine, directly or indirectly; and
- (g) no commission is offered or paid to, or received by, a person for conducting the gambling; and
- (h) no remuneration is offered or paid to, or received by, a person for conducting the gambling, except a caller of housie or an authorised representative of a society; and
- (i) the Secretary has not categorised the gambling as another class of gambling.



**25 Requirements for class 2 gambling**

The requirements for class 2 gambling are that—

- (a) the winners may claim prizes or rewards without incurring costs additional to the cost of participation:
- (b) the following information is published at the point of sale:
  - (i) the name of the society:
  - (ii) the name and address of the organiser of the gambling:
  - (iii) the authorised purposes for which the gambling is conducted, stated specifically:
  - (iv) when entries close:
  - (v) details of where, when, and how results will be made available:
  - (vi) the value and characteristics of the prize or reward to be won:
  - (vii) the cost of entry:
  - (viii) the total number of tickets offered in the gambling:
  - (ix) the process for determining the winners:
- (c) the organiser of the gambling is a member or an authorised representative of a society:
- (d) except for housie, advertisements or notices soliciting entries include the name of the society, the name and address of the organiser, and the authorised purposes for which funds are being raised:
- (e) the prizes or rewards offered, and the authorised purposes for which the gambling is conducted, remain unchanged after tickets are first offered for sale:
- (f) every ticket sold, and no other ticket, is included or represented when the result is determined:
- (g) neither the society nor the organiser holds a ticket:
- (h) unless paragraph (i) or paragraph (j) applies, the result is—
  - (i) declared within 3 months of tickets first being offered for sale and within 14 days after ticket sales cease; and
  - (ii) notified publicly within 1 week after it is declared:
- (i) if the gambling is ancillary to entertainment, the result must be declared while the entertainment continues:

- (j) if the gambling is housie, the result must be declared during the housie session:
- (k) prizes or rewards are given only to the persons who win:
- (l) the society provides the following information to the Secretary, on request by the Secretary, within 14 days of that request:
  - (i) an audited statement of the receipts and payments from the gambling:
  - (ii) the name of each person who conducted the gambling, and any remuneration paid to, or received by, the person for doing so:
- (m) if a prize or reward is unclaimed within 3 months of the declaration of a result, it may be disposed of according to the Secretary's directions:
- (n) if a prize or reward is unclaimed within 3 months of the declaration of a result, the society must notify the Secretary within 10 working days.

## 26 No licence required

Class 2 gambling may be conducted by a society without a licence under this Act.

### *Class 3 gambling*

## 27 Meaning of class 3 gambling

In this Act, **class 3 gambling** is gambling that satisfies the following criteria:

- (a) the net proceeds from the gambling are applied or distributed to authorised purposes; and
- (b) the total value of the prizes offered or awarded to the winners of the gambling activity, or to the winners of 1 session (if the gambling is conducted in sessions of more than 1 game), exceeds \$5,000; and
- (c) the gambling satisfies relevant game rules; and
- (d) the gambling does not utilise or involve a gaming machine, directly or indirectly; and
- (e) no commission is offered or paid to, or received by, a person for conducting the gambling, except a licensed promoter; and
- (f) the Secretary has not categorised the gambling as another class of gambling.

**28 Requirements for class 3 gambling**

- (1) Class 3 gambling that is not conducted regularly may be conducted only by a society that holds a class 3 operator's licence for the gambling.
- (2) Class 3 gambling that is conducted regularly may be conducted only by a corporate society that holds a class 3 operator's licence for the gambling.
- (3) A licensed promoter may promote only class 3 gambling that is not conducted regularly.
- (4) In this section, gambling is **conducted regularly** if it is conducted in sessions of more than 1 game.

**29 Existing licences class 3 operators' licences**

A licence issued under section 8 of the Gaming and Lotteries Act 1977 (except for an existing gaming machine licence), or section 26, or section 35 of that Act becomes, and must be treated as if it were a class 3 operator's licence.

*Class 4 gambling***30 Meaning of class 4 gambling**

In this Act, **class 4 gambling** is—

- (a) gambling that is not gambling of another class and that satisfies the following criteria:
  - (i) the net proceeds from the gambling are applied to or distributed for authorised purposes;
  - (ii) no commission is paid to, or received by, a person for conducting the gambling;
  - (iii) the gambling satisfies relevant game rules; and
- (b) gambling that utilises or involves a gaming machine; or
- (c) gambling categorised by the Secretary as class 4 gambling.

**31 Requirements for class 4 gambling**

Class 4 gambling may be conducted only by a corporate society that holds—

- (a) a class 4 operator's licence for the gambling; and
- (b) a class 4 venue licence for the place where the gambling is conducted.

**32 Existing gaming machine licences and site approvals**

- (1) Despite section 375, an existing gaming machine licence held on the commencement of this section becomes, and must be treated as if it were, a class 4 operator's licence.
- (2) A site approval held on the commencement of this section becomes, and must be treated as if it were, a class 4 venue licence (and expires on the same date as the relevant operator's licence).
- (3) For the purposes of sections 56, 57, 72, and 73, the Secretary may treat a corporate society as the holder of a class 4 operator's licence or class 4 venue licence if the Secretary is satisfied that it is the same, or substantially the same, entity as the society that held an existing gaming machine licence on the commencement of this section.

**33 Status of New Zealand Racing Board and racing clubs**

- (1) The New Zealand Racing Board and societies that are racing clubs under the Racing Act 2003 must be treated as corporate societies for the purposes of—
  - (a) a class 4 operator's licence or class 4 venue licence; or
  - (b) an application for, or the renewal or amendment of, either licence.
- (2) A class 4 venue licence may be issued to the New Zealand Racing Board or a racing club to conduct class 4 gambling only at—
  - (a) a venue owned or leased by the New Zealand Racing Board and used mainly for racing betting or sports betting; or
  - (b) a racecourse.

**34 Meaning of casino gambling**

In this Act, **casino gambling** means gambling—

- (a) that satisfies relevant game rules; and
- (b) to which both a casino venue licence and casino operator's licence apply; but
- (c) that does not include the gambling conducted by the New Zealand Racing Board referred to in section 120.

### Subpart 3—Licensing of class 3 gambling

#### *Applications for class 3 operator's licence*

#### **35 Application for class 3 operator's licence**

- (1) A society may apply to the Secretary for a licence to conduct class 3 gambling.
- (2) An application must be on the relevant standard form and be accompanied by,—
  - (a) if requested by the Secretary, a copy of the applicant's governing document; and
  - (b) details of the authorised purposes to or for which net proceeds from the class 3 gambling will be applied or distributed; and
  - (c) a copy of an agreement that satisfies regulations made under section 219(a) if the class 3 gambling is conducted by a licensed promoter; and
  - (d) any other relevant document requested by the Secretary.
- (3) An application must include the following information:
  - (a) a description of the class 3 gambling to be provided; and
  - (b) a description of prizes that will be offered in the class 3 gambling; and
  - (c) the duration and frequency of the class 3 gambling; and
  - (d) the cost of entering the class 3 gambling; and
  - (e) information about the financial viability of the proposed gambling operation and the means proposed to maximise the net proceeds from the class 3 gambling to be applied to or distributed for authorised purposes; and
  - (f) the address and contact details of the society that will operate the class 3 gambling, the officers of the society, and the organiser of the class 3 gambling; and
  - (g) if relevant, the address of the place at which the society intends to conduct the class 3 gambling; and
  - (h) any other information requested by the Secretary.
- (4) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.

**36 Secretary must investigate applicant for class 3 operator's licence**

- (1) The Secretary must undertake any investigations the Secretary considers necessary to determine whether an applicant is eligible and suitable to be granted a class 3 operator's licence.
- (2) In undertaking investigations, the Secretary may—
  - (a) require the applicant to provide further information relating to the application and to undergo an independent investigation into its financial position and credit history by a person nominated by the Secretary;
  - (b) require the police, a Government agency (except for the Inland Revenue Department), or a racing code to provide information about, or comment on, the applicant (including the organiser of the class 3 gambling and the officers of the society) or other matters concerning the application;
  - (c) refer to the police a copy of the application and any further information provided by the applicant.
- (3) If a racing code is required to provide information about a person, then it must provide any information that it holds that relates to—
  - (a) breaches, within the last 10 years, by the person of any rules of racing made under the Racing Act 2003 or the Racing Act 1971; or
  - (b) the conviction, within the last 10 years, of the person for an offence against the Racing Act 2003 or the Racing Act 1971.
- (4) A person required to provide information under this section must provide the information as promptly as is reasonable in the circumstances.
- (5) Subsection (2) does not limit subsection (1).

*Grant of class 3 operator's licence***37 Grounds for granting class 3 operator's licence**

- (1) The Secretary must refuse to grant a class 3 operator's licence unless the Secretary is satisfied that—
  - (a) the gambling to which the application relates is class 3 gambling; and
  - (b) the applicant's purpose in conducting class 3 gambling is to raise money for authorised purposes; and

- (c) the applicant's proposed gambling operation is financially viable; and
  - (d) the applicant will maximise the net proceeds from the class 3 gambling and minimise the operating costs of that gambling; and
  - (e) the net proceeds from the class 3 gambling will be applied to or distributed for authorised purposes; and
  - (f) the applicant is able to comply with applicable regulatory requirements; and
  - (g) any investigations carried out by the Secretary do not cause the Secretary not to be satisfied about the suitability of the applicant, any officers of the applicant, or the organiser of the gambling.
- (2) In assessing financial viability under subsection (1)(c), the Secretary must consider, among other things, the ability of the applicant to both reward winners and apply or distribute the net proceeds from the class 3 gambling to or for authorised purposes.
- (3) The Secretary may refuse to grant a class 3 operator's licence if an applicant fails to provide the information requested by the Secretary in accordance with section 36.
- (4) If the Secretary decides to refuse to grant a class 3 operator's licence, the Secretary must notify the applicant of—
- (a) the reason for the decision; and
  - (b) the right to appeal the decision; and
  - (c) the process to be followed for an appeal under section 46.

### **38 Content and conditions of class 3 operator's licence**

- (1) A class 3 operator's licence must include the following information and conditions:
- (a) the name of the society that holds the licence; and
  - (b) the commencement date and expiry date of the licence; and
  - (c) if the licence authorises regular gambling, a statement to that effect; and
  - (d) a specific description of the authorised purposes to or for which net proceeds from the class 3 gambling are intended to be applied or distributed; and
  - (e) any other information or conditions added by the Secretary.

- (2) The conditions that the Secretary may add to a class 3 operator's licence include—
  - (a) conditions intended to minimise risks of players becoming problem gamblers:
  - (b) conditions concerning the management of the gambling, including the records that must be maintained and reporting requirements:
  - (c) conditions concerning the management, application, and distribution of funds derived from gambling and from the investment of those funds:
  - (d) conditions that restrict the authorised purposes to or for which net proceeds from the class 3 gambling may be applied or distributed:
  - (e) conditions requiring the society to inform players of the odds of winning, and specifying how that information is to be displayed or provided:
  - (f) conditions encouraging responsible gambling:
  - (g) any other conditions consistent with this Act that the Secretary considers will promote or ensure compliance with this Act.
- (3) The Secretary may—
  - (a) amend or revoke a condition of a class 3 operator's licence; or
  - (b) add new conditions to a class 3 operator's licence.
- (4) If the Secretary decides to amend or revoke a condition or add a new condition to a class 3 operator's licence, the Secretary must notify the society of—
  - (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 46.

### **39 Significant changes in relation to class 3 operator's licence must be notified**

- (1) A society holding a class 3 operator's licence must notify the Secretary, and provide details, of significant changes to the information supplied by a society in, or accompanying, an application for—
  - (a) a class 3 operator's licence; or
  - (b) renewal or amendment of a class 3 operator's licence.
- (2) Notification must be made before, or as soon as practicable after, the changes occur.



- (3) The powers and obligations in section 36 apply to a notification as if the notification were an application for a class 3 operator's licence.
- (4) The Secretary may require the society to apply for an amendment under section 42, or may invoke the suspension or cancellation provisions under sections 43 and 44, as a result of the notification.

**40 Change of purpose and winding up provisions of holder of class 3 operator's licence ineffective without approval**

- (1) A society holding a class 3 operator's licence must obtain the approval of the Secretary before it changes a provision in its governing document that may have the effect of altering—
  - (a) the society's status as an entity established and conducted entirely for non-commercial purposes; or
  - (b) the distribution of its assets on winding up; or
  - (c) its objects so that it is no longer capable of applying or distributing net proceeds from the class 3 gambling to or for authorised purposes.
- (2) If a governing document is changed with an effect described in subsection (1) without the approval of the Secretary, the change may be ignored by the Minister, the Secretary, the Gambling Commission, or the Department in applying this Act.

*Renewal or amendment of class 3 operator's licence*

**41 Renewal of class 3 operator's licence**

- (1) A corporate society that operates class 3 gambling regularly may apply to the Secretary for a renewal of its class 3 operator's licence before the expiry of the licence.
- (2) An application must be on the relevant standard form and be accompanied by any items listed in section 35 that the Secretary requests in order to consider the application and effect the renewal.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (4) Sections 36 and 37 apply to an application for renewal as if it were an application for a class 3 operator's licence.
- (5) The Secretary must refuse to renew a class 3 operator's licence if—

- (a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 37; or
  - (b) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, licence conditions, game rules, and minimum standards.
- (6) A class 3 operator's licence continues in force after its expiry date if—
- (a) the corporate society has applied for a renewal before the expiry date; and
  - (b) the application has not been refused.

#### **42 Amending class 3 operator's licence**

- (1) A society must apply to the Secretary to amend its class 3 operator's licence if the society proposes to—
- (a) change the authorised purpose to or for which net proceeds from the class 3 gambling will be applied or distributed; or
  - (b) make any other change that impacts on its ability to comply with this Act or the licence.
- (2) An application must be on the relevant standard form and be accompanied by any items listed in section 35 that the Secretary requests in order to consider the application and effect the amendment.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (4) Sections 36 and 37 apply to an application for amendment as if it were an application for a class 3 operator's licence.
- (5) The Secretary must refuse to amend a class 3 operator's licence if—
- (a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 37; or
  - (b) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, licence conditions, game rules, and minimum standards.

*Suspension, cancellation, or refusal to amend or renew class 3 operator's licence*

**43 Suspension or cancellation of class 3 operator's licence**

- (1) The Secretary may suspend for up to 6 months, or cancel, a class 3 operator's licence if the Secretary is satisfied that—
  - (a) any of the grounds in section 37 are no longer met; or
  - (b) the society is failing, or has failed, to comply with any relevant requirement of this Act, licence conditions, and game rules; or
  - (c) the society supplied information that is materially false or misleading in its application for the licence, or for a renewal or amendment of the licence.
- (2) In deciding whether to suspend or cancel a class 3 operator's licence, the Secretary must take into account the matters in section 37.

**44 Procedure for suspending, cancelling, or refusing to amend or renew class 3 operator's licence**

- (1) If the Secretary proposes to suspend, cancel, or refuse to amend or renew a class 3 operator's licence, the Secretary must notify the society of—
  - (a) the proposal to suspend, cancel, or refuse to amend or renew the licence; and
  - (b) the reason for the proposed suspension, cancellation, or refusal; and
  - (c) the society's rights, and the procedure to be followed—
    - (i) before the suspension or cancellation takes effect; or
    - (ii) as a result of the refusal to amend or renew the licence.
- (2) The society may make written submissions to the Secretary concerning the proposed suspension, cancellation, or refusal to amend or renew within—
  - (a) 20 working days after the date of the notice under subsection (1); or
  - (b) any longer period that the Secretary allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Secretary must consider any submissions made by the society.

- (4) If the Secretary decides to suspend a licence, the Secretary must notify the society of—
  - (a) the date that the suspension takes effect; and
  - (b) the suspension period (up to 6 months); and
  - (c) the reason for the suspension; and
  - (d) the matters to be dealt with in order for the Secretary to consider withdrawing the suspension before the end of the suspension period; and
  - (e) the consequences of not dealing with the matters identified.
- (5) If the Secretary decides to cancel or refuse to amend or renew a licence, the Secretary must notify the society of—
  - (a) for a cancellation, the date on which the cancellation takes effect and the reason for the cancellation;
  - (b) for a refusal to amend or renew, the reason for the refusal.
- (6) If subsection (4) or subsection (5) applies, the Secretary must also notify the society of—
  - (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 46.

**45 Consequences of suspension, cancellation, or refusal to amend or renew class 3 operator's licence**

- (1) The suspension or cancellation of, or refusal to amend or renew, a class 3 operator's licence does not affect—
  - (a) the obligation of the society to apply or distribute the net proceeds from the class 3 gambling in accordance with this Act and the licence; and
  - (b) any condition added to the licence by the Secretary relating to records that must be maintained and reporting requirements.
- (2) The Secretary may decide to withdraw a suspension before the end of the suspension period if the reasons for the suspension are resolved to the satisfaction of the Secretary.
- (3) The Secretary may decide to cancel a suspended licence at the end of the suspension period if the reasons for the suspension are not resolved to the satisfaction of the Secretary.
- (4) Section 44(5) and (6) apply to the cancellation of a suspended licence.

- (5) Subject to section 47, a licence that is suspended or cancelled or refused to be renewed or amended remains in force or unchanged (as the case may be) until the period for making an appeal expires.
- (6) A society is not entitled to a refund of fees, taxes, or levies paid in relation to class 3 gambling if the Secretary suspends, cancels, or refuses to amend or renew its class 3 operator's licence.

**46 Appeal to Gambling Commission regarding class 3 operator's licence**

- (1) A society may appeal to the Gambling Commission against a decision of the Secretary to—
  - (a) refuse to grant a class 3 operator's licence to the society; or
  - (b) amend or revoke a condition of the licence, or add a new condition to it; or
  - (c) refuse an application by the corporate society for the renewal of a class 3 operator's licence; or
  - (d) refuse to amend a class 3 operator's licence held by the society; or
  - (e) suspend or cancel a class 3 operator's licence held by the society.
- (2) An appeal must be in writing and must be made within—
  - (a) 15 working days after the date of the notice of the Secretary's decision; or
  - (b) any longer period that the Gambling Commission allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Gambling Commission—
  - (a) may request any information from the society or the Secretary; and
  - (b) is not bound to follow any formal procedure; and
  - (c) does not need to hold a hearing; and
  - (d) must consider any information provided by the society or the Secretary.
- (4) The Gambling Commission may then—
  - (a) confirm, vary, or reverse the decision of the Secretary; or
  - (b) refer the matter back to the Secretary with directions to reconsider the decision.

- (5) The Gambling Commission must give notice of its decision, with reasons, to both the society and the Secretary.

**47 Consequences of appeal regarding class 3 operator's licence**

- (1) The conditions of a class 3 operator's licence remain unchanged pending the outcome of an appeal if the appellant appeals an amendment or revocation of a condition or the addition of a new condition under section 46(1)(b).
- (2) A class 3 operator's licence remains in force until—
- (a) the expiry of the period for an appeal under section 46(2); or
  - (b) the outcome of an appeal, if the appellant—
    - (i) appeals a refusal to renew or amend the licence under section 46(1)(c) or (d); or
    - (ii) appeals a decision to suspend or cancel the licence under section 46(1)(e).

*Other matters*

**48 Surrender of class 3 operator's licence**

- (1) A society may surrender a class 3 operator's licence to the Secretary at any time.
- (2) The surrender of a class 3 operator's licence does not affect—
- (a) the obligation of the society to apply or distribute the net proceeds from the gambling in accordance with this Act and the licence; and
  - (b) any conditions relating to records that must be maintained and reporting requirements.

**49 Class 3 operator's licence not transferable**

A class 3 operator's licence is not transferable.

Subpart 4—Licensing of class 4 gambling

*Applications for class 4 operator's licence*

**50 Application for class 4 operator's licence**

- (1) A corporate society may apply to the Secretary for a licence to conduct class 4 gambling.
- (2) An application must be on the relevant standard form and be accompanied by—

- (a) a copy of the applicant's governing document; and
  - (b) details of the authorised purposes to or for which net proceeds from the class 4 gambling will be applied or distributed; and
  - (c) a statement by the applicant of how it proposes to minimise the risks of problem gambling (including the society's policy for identifying problem gamblers); and
  - (d) information about the financial viability of the proposed gambling operation and the means proposed to maximise the net proceeds from the class 4 gambling to be applied to or distributed for authorised purposes; and
  - (e) in the case of an applicant that operates mainly to distribute net proceeds from the class 4 gambling to the community, details of the methods, systems, and policies for consideration of applications and distribution of net proceeds; and
  - (f) a profile of each key person, including details of their experience in class 4 gambling, history in gambling, character, and qualifications; and
  - (g) an application, and accompanying information, for a class 4 venue licence for each venue at which the applicant proposes to operate class 4 gambling; and
  - (h) any information requested by the Secretary to assist the Secretary to determine whether the applicant is suitable; and
  - (i) any information requested by the Secretary to show that the applicant will meet the requirements of this Act and the conditions of the proposed licence.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.

**51 Secretary must investigate applicant for class 4 operator's licence**

- (1) The Secretary must undertake any investigations the Secretary considers necessary to determine whether the applicant and the key persons are eligible and suitable for the applicant to be granted a class 4 operator's licence.
- (2) In undertaking investigations, the Secretary may—
  - (a) require the applicant and any key person to provide further information relating to the application and to undergo an independent investigation into its financial

- position and credit history by a person nominated by the Secretary:
- (b) require the police, a Government agency (except for the Inland Revenue Department), or a racing code to provide information about, or comment on, the applicant and any key person or other matters concerning the application:
  - (c) refer to the police a copy of the application and any further information provided by the applicant and any key person.
- (3) If a racing code is required to provide information about a person, then it must provide any information that it holds that relates to—
- (a) breaches, within the last 10 years, by the person of any rules of racing made under the Racing Act 2003 or the Racing Act 1971; or
  - (b) the conviction, within the last 10 years, of the person for an offence against the Racing Act 2003 or the Racing Act 1971.
- (4) A person required to provide information under this section must provide the information as promptly as is reasonable in the circumstances.
- (5) Subsection (2) does not limit subsection (1).

*Grant of class 4 operator's licence*

**52 Grounds for granting class 4 operator's licence**

- (1) The Secretary must refuse to grant a class 4 operator's licence unless the Secretary is satisfied that,—
- (a) the gambling to which the application relates is class 4 gambling; and
  - (b) the applicant's purpose in conducting class 4 gambling is to raise money for authorised purposes; and
  - (c) the applicant's proposed gambling operation is financially viable; and
  - (d) the applicant will maximise the net proceeds from the class 4 gambling and minimise the operating costs of that gambling; and
  - (e) the net proceeds from the class 4 gambling will be applied to or distributed for authorised purposes; and
  - (f) the applicant is able to comply with applicable regulatory requirements; and



- (g) the applicant will minimise the risks of problem gambling; and
  - (h) any investigations carried out by the Secretary do not cause the Secretary not to be satisfied about the suitability of the applicant or any key person, in terms of subsection (4); and
  - (i) there are no factors that are likely to detract from achieving the purpose of this Act; and
  - (j) a key person is not a key person in relation to a class 4 venue licence held, or applied for, by the applicant (except in the case of a club that intends to operate gambling equipment on its own non-commercial premises, the New Zealand Racing Board, or a racing club).
- (2) In assessing financial viability under subsection (1)(c), the Secretary must consider, among other things, the ability of the applicant to reward winners and pay levies, taxes, and other costs, as well as apply or distribute the net proceeds from the class 4 gambling to or for authorised purposes.
- (3) The Secretary may refuse to grant a class 4 operator's licence if an applicant fails to provide the information requested by the Secretary in accordance with section 51.
- (4) In determining whether an applicant is suitable for a class 4 operator's licence, the Secretary may investigate and take into account the following things:
- (a) whether the applicant or a key person has, within the last 10 years,—
    - (i) been convicted of a relevant offence:
    - (ii) held, or been a key person in relation to a class 3 or class 4 operator's licence, a class 4 venue licence, a casino licence, or a licensed promoter's licence under this Act or any licence under previous gaming Acts that has been cancelled, suspended, or for which an application for renewal has been refused:
    - (iii) been placed in receivership, gone into liquidation, or been adjudged bankrupt; and
  - (b) the financial position of the applicant and the credit history of the applicant and each key person; and
  - (c) the profile of past compliance by the applicant and each key person with—

- (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.
- (5) The Secretary may take into account matters of a similar nature to those listed in subsection (4) that occurred outside New Zealand.
- (6) If the Secretary decides to refuse to grant a class 4 operator's licence, the Secretary must notify the applicant of—
- (a) the reason for the decision; and
  - (b) the right to appeal the decision; and
  - (c) the process to be followed for an appeal under section 61.

### **53 Content and conditions of class 4 operator's licence**

- (1) A class 4 operator's licence granted after the commencement of this section must include the following information and conditions:
- (a) the name of the corporate society that holds the licence; and
  - (b) the commencement date and expiry date (which must be not later than 18 months after the commencement date) of the licence; and
  - (c) a specific description of the authorised purposes to or for which net proceeds from the class 4 gambling are intended to be applied or distributed; and
  - (d) any other information or conditions added by the Secretary.
- (2) The conditions that the Secretary may add to a class 4 operator's licence include—
- (a) conditions intended to minimise risks of players becoming problem gamblers;
  - (b) conditions concerning the management of the gambling, including the records that must be maintained and reporting requirements;

- (c) conditions concerning the management, application, and distribution of funds derived from gambling and from the investment of those funds:
  - (d) conditions that restrict the authorised purposes to or for which net proceeds from the class 4 gambling may be applied or distributed:
  - (e) conditions requiring the corporate society to inform players of the odds of winning, and specifying how that information is to be displayed or provided:
  - (f) conditions encouraging responsible gambling:
  - (g) any other conditions consistent with this Act that the Secretary considers will promote or ensure compliance with this Act.
- (3) The Secretary may—
- (a) amend or revoke a condition of a class 4 operator's licence; or
  - (b) add new conditions to a class 4 operator's licence.
- (4) If the Secretary decides to amend or revoke a condition or add a new condition to a class 4 operator's licence, the Secretary must notify the corporate society of—
- (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 61.

#### **54 Significant changes in relation to class 4 operator's licence must be notified**

- (1) A corporate society holding a class 4 operator's licence must notify the Secretary, and provide details, if any of the following things occur:
- (a) the corporate society or a key person is convicted of a relevant offence:
  - (b) the corporate society or a key person is placed in receivership, goes into liquidation, or is adjudged bankrupt:
  - (c) the corporate society or a key person breaches a rule of racing made under the Racing Act 2003:
  - (d) a key person ceases to be a key person or is incapable of performing the duties of his or her position:
  - (e) a change is proposed to the corporate society's governing document that may affect the corporate society's ability to comply with this Act or the licence.

- (2) Notification must be made before, or as soon as practicable after, the changes occur.
- (3) The powers and obligations in section 51 apply to a notification as if the notification were an application for a class 4 operator's licence.
- (4) The Secretary may require the corporate society to apply for an amendment under section 57, or may invoke the suspension or cancellation provisions under sections 58 and 59, as a result of the notification.

**55 Change of purpose and winding up provisions of holder of class 4 operator's licence ineffective without approval**

- (1) A corporate society holding a class 4 operator's licence must obtain the approval of the Secretary before it changes a provision in its governing document that may have the effect of altering—
  - (a) the corporate society's status as an entity established and conducted entirely for non-commercial purposes; or
  - (b) the distribution of its assets on winding up; or
  - (c) its objects so that it is no longer capable of applying or distributing net proceeds from the class 4 gambling to or for authorised purposes.
- (2) If a governing document is changed with an effect described in subsection (1) without the approval of the Secretary, the change may be ignored by the Minister, the Secretary, the Gambling Commission, or the Department in applying this Act.

*Renewal or amendment of class 4 operator's licence*

**56 Renewal of class 4 operator's licence**

- (1) A corporate society may apply to the Secretary for a renewal of its class 4 operator's licence before the expiry of the licence.
- (2) An application must be on the relevant standard form and be accompanied by—
  - (a) any items listed in section 50 that the Secretary requests in order to consider the application and effect the renewal; and

- (b) if applicable, any items necessary to effect an application for a class 4 venue licence.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (4) Sections 51 and 52 apply to an application for renewal as if it were an application for a class 4 operator's licence.
- (5) The Secretary must refuse to renew a class 4 operator's licence if—
  - (a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 52; or
  - (b) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, licence conditions, game rules, and minimum standards.
- (6) A class 4 operator's licence continues in force after its expiry date if—
  - (a) the corporate society has applied for renewal before the expiry date; and
  - (b) the application has not been refused.

#### **57 Amending class 4 operator's licence**

- (1) A corporate society must apply to the Secretary to amend its class 4 operator's licence if the corporate society proposes to—
  - (a) change the authorised purpose to or for which net proceeds from the class 4 gambling will be applied or distributed; or
  - (b) change its problem gambling policies; or
  - (c) change its methods, systems, or policies for the consideration of applications for the distribution of net proceeds from the class 4 gambling; or
  - (d) add a new key person; or
  - (e) make any other change that impacts on its ability to comply with this Act or the licence.
- (2) An application must be on the relevant standard form and be accompanied by—
  - (a) any items listed in section 50 that the Secretary requests in order to consider the application and effect the amendment; and

- (b) if applicable, any items necessary to effect an application for a class 4 venue licence.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (4) Sections 51 and 52 apply to an application for amendment as if it were an application for a class 4 operator's licence.
- (5) The Secretary must refuse to amend a class 4 operator's licence if—
  - (a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 52; or
  - (b) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, licence conditions, game rules, and minimum standards.

*Suspension, cancellation, or refusal to amend or renew  
class 4 operator's licence*

**58 Suspension or cancellation of class 4 operator's licence**

- (1) The Secretary may suspend for up to 6 months, or cancel, a class 4 operator's licence if the Secretary is satisfied that—
  - (a) any of the grounds in section 52 are no longer met; or
  - (b) the corporate society is failing, or has failed, to comply with any relevant requirement of this Act, licence conditions, game rules, and minimum standards; or
  - (c) the class 4 venue agreement is no longer consistent with ensuring compliance with this Act or the licence; or
  - (d) the corporate society supplied information that is materially false or misleading in its application for—
    - (i) a class 4 operator's licence; or
    - (ii) a renewal or an amendment of a class 4 operator's licence; or
    - (iii) a class 4 venue licence; or
    - (iv) a renewal or an amendment of a class 4 venue licence.
- (2) In deciding whether to suspend or cancel a class 4 operator's licence, the Secretary must take into account the matters in section 52.

**59 Procedure for suspending, cancelling, or refusing to amend or renew class 4 operator's licence**

- (1) If the Secretary proposes to suspend, cancel, or refuse to amend or renew a class 4 operator's licence, the Secretary must notify the corporate society of—
  - (a) the proposal to suspend, cancel, or refuse to amend or renew the licence; and
  - (b) the reason for the proposed suspension, cancellation, or refusal; and
  - (c) the corporate society's rights, and the procedure to be followed—
    - (i) before the suspension or cancellation takes effect; or
    - (ii) as a result of the refusal to amend or renew the licence.
- (2) The corporate society may make written submissions to the Secretary concerning the proposed suspension, cancellation, or refusal to amend or renew within—
  - (a) 20 working days after the date of the notice under subsection (1); or
  - (b) any longer period that the Secretary allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Secretary must consider any submissions made by the corporate society.
- (4) If the Secretary decides to suspend a licence, the Secretary must notify the corporate society of—
  - (a) the date that the suspension takes effect; and
  - (b) the suspension period (up to 6 months); and
  - (c) the reason for the suspension; and
  - (d) the matters to be dealt with in order for the Secretary to consider withdrawing the suspension before the end of the suspension period; and
  - (e) the consequences of not dealing with the matters identified.
- (5) If the Secretary decides to cancel or refuse to amend or renew a licence, the Secretary must notify the corporate society of,—
  - (a) for a cancellation, the date on which the cancellation takes effect and the reason for the cancellation; or
  - (b) for a refusal to amend or renew, the reason for the refusal.

- (6) If subsection (4) or subsection (5) applies, the Secretary must also notify the corporate society of—
- (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 61.

**60 Consequences of suspension, cancellation, or refusal to amend or renew class 4 operator's licence**

- (1) The suspension or cancellation of, or refusal to amend or renew, a class 4 operator's licence does not affect—
  - (a) the obligation of the corporate society to apply or distribute the net proceeds from the class 4 gambling in accordance with this Act and the licence; and
  - (b) any condition added to the licence by the Secretary relating to records that must be maintained and reporting requirements.
- (2) The Secretary may decide to withdraw a suspension before the end of the suspension period if the reasons for the suspension are resolved to the satisfaction of the Secretary.
- (3) The Secretary may decide to cancel a suspended licence at the end of the suspension period if the reasons for the suspension are not resolved to the satisfaction of the Secretary.
- (4) Section 59(5) and (6) apply to the cancellation of a suspended licence.
- (5) Subject to section 62, a licence that is suspended or cancelled or refused to be renewed or amended remains in force or unchanged (as the case may be) until the period for making an appeal expires.
- (6) A corporate society is not entitled to a refund of fees, taxes, or levies paid in relation to class 4 gambling if the Secretary suspends, cancels, or refuses to amend or renew its class 4 operator's licence.

**61 Appeal to Gambling Commission regarding class 4 operator's licence**

- (1) A corporate society may appeal to the Gambling Commission against a decision of the Secretary to—
  - (a) refuse to grant a class 4 operator's licence to the corporate society; or



- (b) amend or revoke a condition of the licence, or add a new condition to it; or
  - (c) refuse an application by the corporate society for the renewal of a class 4 operator's licence; or
  - (d) refuse to amend a class 4 operator's licence held by the corporate society; or
  - (e) suspend or cancel a class 4 operator's licence held by the corporate society.
- (2) An appeal must be in writing and must be made within—
- (a) 15 working days after the date of the notice of the Secretary's decision; or
  - (b) any longer period that the Gambling Commission allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Gambling Commission—
- (a) may request any information from the corporate society or the Secretary; and
  - (b) is not bound to follow any formal procedure; and
  - (c) does not need to hold a hearing; and
  - (d) must consider any information provided by the corporate society or the Secretary.
- (4) The Gambling Commission may then—
- (a) confirm, vary, or reverse the decision of the Secretary; or
  - (b) refer the matter back to the Secretary with directions to reconsider the decision.
- (5) The Gambling Commission must give notice of its decision, with reasons, to both the corporate society and the Secretary.

## **62 Consequences of appeal regarding class 4 operator's licence**

- (1) The conditions of a class 4 operator's licence remain unchanged pending the outcome of an appeal if the appellant appeals an amendment or revocation of a condition or the addition of a new condition under section 61(1)(b).
- (2) A class 4 operator's licence remains in force until—
- (a) the expiry of the period for an appeal under section 61(2); or
  - (b) the outcome of an appeal, if the appellant—
    - (i) appeals a refusal to renew or amend the licence under section 61(1)(c) or (d); or

- (ii) appeals a decision to suspend or cancel the licence under section 61(1)(e).

*Other matters*

**63 Surrender of class 4 operator's licence**

- (1) A corporate society may surrender a class 4 operator's licence to the Secretary at any time.
- (2) The surrender of a class 4 operator's licence does not affect—
  - (a) the obligation of the corporate society to apply or distribute the net proceeds from the gambling in accordance with this Act and the licence; and
  - (b) any conditions relating to records that must be maintained and reporting requirements.

**64 Class 4 operator's licence not transferable**

A class 4 operator's licence is not transferable.

*Applications for class 4 venue licence*

**65 Application for class 4 venue licence**

- (1) A corporate society may apply to the Secretary for a class 4 venue licence.
- (2) An application must be on the relevant standard form and be accompanied by—
  - (a) a description of the venue and its location; and
  - (b) a territorial authority consent if required under section 98; and
  - (c) a copy of a class 4 venue agreement if required under subsection (3); and
  - (d) a statement by the applicant of how it proposes to minimise the risks of problem gambling and underage gambling at the class 4 venue; and
  - (e) a profile of the venue manager and the venue operator, including details of their experience in class 4 gambling, history in gambling, character, and qualifications; and
  - (f) details of gambling equipment that the applicant intends to operate at the venue and evidence that it meets relevant minimum standards; and

- (g) if the application relates to a venue that is licensed to another corporate society, notice from the other corporate society that it is surrendering its venue licence for the venue; and
  - (h) if relevant, evidence that on issue of the licence the applicant will own any gambling equipment (except for electronic monitoring systems) that it proposes to operate; and
  - (i) evidence that any gambling equipment that the applicant proposes to operate under the licence is not and will not be financed by the manufacturer, distributor, or vendor of the equipment; and
  - (j) evidence that the class 4 venue is not to be used mainly for operating gaming machines; and
  - (k) for a class 4 venue that is not established before the commencement of this section, evidence that the class 4 venue is not to be part of a place at which another class 4 venue or a casino is located; and
  - (l) evidence that the venue is suitable in all other respects to be a class 4 venue.
- (3) The application must also be accompanied by a class 4 venue agreement unless the Secretary is satisfied that the applicant is a club that intends to operate gambling equipment at a non-commercial class 4 venue that—
- (a) it owns or leases; and
  - (b) is mainly for the use of club members.
- (4) Despite subsection (3), an application by the New Zealand Racing Board or a racing club is not required to be accompanied by a venue agreement.
- (5) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (6) The Secretary may request from the applicant any further information that the Secretary considers necessary to consider the application properly.

**66 Secretary must investigate applicant for class 4 venue licence**

- (1) The Secretary must undertake any investigations the Secretary considers necessary to determine—
- (a) whether the applicant is eligible and suitable to be granted a class 4 venue licence; and

- (b) whether the venue manager and venue operator are suitable persons in terms of section 68.
- (2) The Secretary may undertake whatever investigations the Secretary considers necessary to determine whether any other key person is a suitable person in terms of section 68.
- (3) In undertaking investigations, the Secretary may—
  - (a) require the applicant and any key person to provide further information relating to the application and to undergo an independent investigation into its financial position and credit history by a person nominated by the Secretary:
  - (b) require the police, a Government agency (except for the Inland Revenue Department), or a racing code to provide information about, or comment on, the applicant and any key person or other matters concerning the application:
  - (c) refer to the police a copy of the application and any further information provided by the applicant and any key person.
- (4) If a racing code is required to provide information about a person, then it must provide any information that it holds that relates to—
  - (a) breaches, within the last 10 years, by the person of any rules of racing made under the Racing Act 2003 or the Racing Act 1971; or
  - (b) the conviction, within the last 10 years, of the person for an offence against the Racing Act 2003 or the Racing Act 1971.
- (5) A person required to provide information under this section must provide the information as promptly as is reasonable in the circumstances.
- (6) Subsection (3) does not limit subsection (1).

*Grant of class 4 venue licence*

**67 Grounds for granting class 4 venue licence**

- (1) The Secretary must refuse to grant a class 4 venue licence unless the Secretary is satisfied that—
  - (a) the applicant holds a class 4 operator's licence; and

- (b) the possibility of persons under 18 years old gaining access to class 4 gambling at the class 4 venue is minimal; and
- (c) the venue manager is an individual and any investigations carried out by the Secretary do not cause the Secretary not to be satisfied about his or her suitability, in terms of section 68, to supervise—
  - (i) the conduct of class 4 gambling at the venue; and
  - (ii) venue personnel; and
- (d) any investigations carried out by the Secretary do not cause the Secretary not to be satisfied about the suitability of any other key person, in terms of section 68; and
- (e) if the application relates to a class 4 venue that is licensed to another corporate society, the other corporate society has surrendered its class 4 venue licence for the venue; and
- (f) the territorial authority has provided a consent (if required under section 98); and
- (g) on issue of the licence, the applicant will own any gambling equipment (except for electronic monitoring systems) that it proposes to operate; and
- (h) on issue of the licence, the applicant will not operate any gambling equipment that is financed by the manufacturer, distributor, or vendor of the equipment; and
- (i) all gambling equipment to be operated at the venue meets relevant minimum standards; and
- (j) the class 4 venue agreement (if required)—
  - (i) enables the class 4 gambling conducted at the class 4 venue to comply with this Act and the proposed class 4 venue licence; and
  - (ii) includes the information specified in section 69; and
- (k) the class 4 venue is not used mainly for operating gaming machines; and
- (l) for a class 4 venue that is not established before the commencement of this section, the class 4 venue is not to be part of a place at which another class 4 venue or a casino is located; and
- (m) for an application to which section 65(3) applies, no person will be both a key person in relation to the relevant class 4 operator's licence and a key person in relation to the class 4 venue licence; and

- (n) if the New Zealand Racing Board is the applicant, the class 4 venue is either—
    - (i) owned or leased by the New Zealand Racing Board and used mainly for racing betting or sports betting; or
    - (ii) a racecourse; and
  - (o) if the applicant is a racing club, the class 4 venue is a racecourse; and
  - (p) the risk of problem gambling at the class 4 venue is minimised; and
  - (q) the proposed venue is suitable in all other respects to be a class 4 venue; and
  - (r) there are no other factors that are likely to detract from achieving the purpose of this Act; and
  - (s) any other requirement set out in regulations or licence conditions is, or will be, met.
- (2) If the Secretary decides to refuse to grant a class 4 venue licence, the Secretary must notify the applicant, or, if there is a venue agreement, the parties to the agreement, and the venue manager of—
- (a) the reason for the decision; and
  - (b) the right to appeal the decision; and
  - (c) the process to be followed for an appeal under section 77.

## **68 Determining suitability for class 4 venue licence**

- (1) In determining whether a key person is a suitable person for the purpose of sections 66 and 67, the Secretary may investigate and take into account the following things:
- (a) whether he or she has, within the last 10 years,—
    - (i) been convicted of a relevant offence:
    - (ii) held, or been a key person in relation to, a class 3 or class 4 operator's licence, a class 4 venue licence, a casino licence, or a licensed promoter's licence under this Act or any licence under previous gaming Acts that has been cancelled, suspended, or for which an application for renewal has been refused:
    - (iii) been placed in receivership, gone into liquidation, or been adjudged bankrupt:

- (b) the financial position and the credit history of the key person:
- (c) the profile of past compliance by the key person with—
  - (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.
- (2) The Secretary may take into account matters of a similar nature to those listed in subsection (1) that occurred outside New Zealand.

#### **69 Form and content of class 4 venue agreement**

- (1) The form and content of a class 4 venue agreement must be approved by the Secretary and must include—
  - (a) a schedule signed by the venue manager and the venue operator setting out—
    - (i) the full name, date of birth, and contact details of the venue manager; and
    - (ii) the gambling-related duties and responsibilities of the venue manager; and
  - (b) an itemised list of costs associated with the operation of class 4 gambling at the venue; and
  - (c) the expiry date of the venue agreement.
- (2) A class 4 venue agreement must be signed by the holder of, or applicant for, the class 4 venue licence and the venue operator.
- (3) The expiry date of a class 4 venue agreement may be overridden by anything to the contrary in this Act, game rules, minimum standards, or licence conditions but, in any case, must not be later than 3 years after the date of the venue agreement.
- (4) Approval of a class 4 venue agreement lapses if the corporate society ceases to hold a class 4 operator's licence or a class 4 venue licence for that venue.

**70 Content and conditions of class 4 venue licence**

- (1) A class 4 venue licence granted after the commencement of this section must include the following information and conditions:
  - (a) the name of the corporate society that holds the licence; and
  - (b) the commencement date and expiry date (which must be not later than 18 months after the commencement date) of the licence; and
  - (c) the authorised purpose of the corporate society; and
  - (d) the name of the venue operator; and
  - (e) the name of the venue manager; and
  - (f) a description of the class 4 venue and its location; and
  - (g) conditions about the class 4 gambling that may be conducted at the venue, including the number of gaming machines that may be operated; and
  - (h) details of the gambling equipment that may be operated at the venue; and
  - (i) conditions to prevent class 4 gambling being conducted at the venue unless the primary activity of the venue is offered and available at that time; and
  - (j) any other conditions added by the Secretary.
- (2) The conditions that the Secretary may add to a class 4 venue licence include—
  - (a) procedures to ensure that both the venue operator and the venue manager can supervise effectively—
    - (i) the class 4 gambling at the venue; and
    - (ii) the venue personnel:
  - (b) conditions to minimise the possibility of persons under 18 years old gaining access to class 4 gambling at the class 4 venue:
  - (c) procedures for banking money from the gambling:
  - (d) conditions regarding the application or distribution of net proceeds from the class 4 gambling to or for authorised purposes:
  - (e) if the corporate society accepts applications for the distribution of net proceeds from gambling, conditions about the process for making, and the provision of information about how to make, an application:
  - (f) conditions regarding the display of the class 4 venue licence at the venue:



- (g) procedures to encourage responsible gambling at the venue;
  - (h) conditions specifying areas within a class 4 venue as the only areas permitted for conducting class 4 gambling;
  - (i) any other conditions consistent with this Act that the Secretary considers will promote or ensure compliance with this Act.
- (3) The Secretary may—
- (a) amend or revoke a condition of a class 4 venue licence; or
  - (b) add new conditions to a class 4 venue licence.
- (4) If the Secretary decides to amend or revoke a condition or add a new condition to a class 4 venue licence, the Secretary must notify the corporate society or the parties to the venue agreement, and the venue manager, of—
- (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 77.
- (5) Despite subsection (1)(b), a class 4 venue licence expires on the date that a class 4 operator's licence held by the corporate society that holds the class 4 venue licence is surrendered, expires, or is cancelled.
- (6) For the purposes of subsection (1)(i), if the class 4 venue is a racecourse, the primary activity of the venue must be treated as including the provision of sports, recreation, entertainment, and convention facilities.

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

- (1) A corporate society holding a class 4 venue licence must notify the Secretary, and provide details, if any of the following things occur:
- (a) a key person in relation to the class 4 venue licence is convicted of a relevant offence;
  - (b) a key person in relation to the class 4 venue licence is placed in receivership, goes into liquidation, or is adjudged bankrupt;
  - (c) a key person in relation to a class 4 venue licence breaches a rule of racing made under section 29 of the Racing Act 2003:

- (d) the venue manager ceases to be the venue manager or is incapable of performing the duties of his or her position:
  - (e) the venue operator changes:
  - (f) the nature of the class 4 venue changes:
  - (g) the corporate society has not conducted class 4 gambling at the venue for a period of more than 4 weeks (in which case the class 4 venue licence must be surrendered unless the Secretary agrees that the venue may remain inactive for a further specified period).
- (2) Notification must be made before, or as soon as practicable after, an event listed in subsection (1) occurs.
  - (3) The powers and obligations in section 66 apply to a notification as if the notification were an application for a class 4 venue licence.
  - (4) The Secretary may require the corporate society to apply for an amendment under section 73, or may invoke the suspension or cancellation provisions under sections 74 and 75, as a result of the notification.

*Renewal or amendment of class 4 venue licence*

**72 Renewal of class 4 venue licence**

- (1) A corporate society may apply to the Secretary for a renewal of its class 4 venue licence before the expiry of the licence.
- (2) An application must be on the relevant standard form and be accompanied by any items listed in section 65 that the Secretary requests in order to consider the application and effect the renewal.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (4) Sections 66 and 67 apply to an application for renewal as if it were an application for a class 4 venue licence.
- (5) The Secretary must refuse to renew a class 4 venue licence if—
  - (a) the applicant does not hold the associated operator's licence; or
  - (b) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 67; or

- (c) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, licence conditions, game rules, and minimum standards.
- (6) Unless the associated operator's licence is cancelled, suspended, or not renewed, a class 4 venue licence continues in force after its expiry date if—
- (a) the corporate society has applied for renewal before the expiry date; and
  - (b) the application has not been refused.

### **73 Amending class 4 venue licence**

- (1) A corporate society must apply to the Secretary to amend its class 4 venue licence if the corporate society proposes to—
- (a) change any gambling equipment at the venue; or
  - (b) increase the number of gaming machines that it may operate at the venue; or
  - (c) change any condition of the licence or any procedure that is a condition of the licence.
- (2) An application must be on the relevant standard form and be accompanied by any items listed in section 65 that the Secretary requests in order to consider the application and effect the amendment.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (4) Sections 66 and 67 apply to an application for amendment as if it were an application for a class 4 venue licence.
- (5) The Secretary must refuse to amend a class 4 venue licence if—
- (a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 67; or
  - (b) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, licence conditions, game rules, and minimum standards.

*Suspension, cancellation, or refusal to amend or renew  
class 4 venue licence*

**74 Suspension or cancellation of class 4 venue licence**

- (1) The Secretary may suspend for up to 6 months, or cancel, a class 4 venue licence if the Secretary is satisfied that—
  - (a) any of the grounds in section 67 are no longer met; or
  - (b) the corporate society is failing, or has failed, to comply with any relevant requirement of this Act, licence conditions, game rules, and minimum standards; or
  - (c) the class 4 venue agreement is no longer consistent with ensuring compliance with this Act or the licence; or
  - (d) the corporate society supplied information that is materially false or misleading in its application for—
    - (i) a class 4 venue licence; or
    - (ii) a renewal or an amendment of a class 4 venue licence; or
    - (iii) a class 4 operator's licence; or
    - (iv) a renewal or an amendment of a class 4 operator's licence.
- (2) In deciding whether to suspend or cancel a class 4 venue licence, the Secretary must take into account the matters in section 67.

**75 Procedure for suspending, cancelling, or refusing to amend or renew class 4 venue licence**

- (1) If the Secretary proposes to suspend, cancel, or refuse to amend or renew a class 4 venue licence, the Secretary must notify the corporate society or, if there is a venue agreement, the parties to the agreement, and the venue manager of—
  - (a) the proposal to suspend, cancel, or refuse to amend or renew the licence; and
  - (b) the reason for the proposed suspension, cancellation, or refusal; and
  - (c) their rights, and the procedure to be followed—
    - (i) before the suspension or cancellation takes effect; or
    - (ii) as a result of the refusal to amend or renew the licence.
- (2) The corporate society or the parties to the venue agreement, and the venue manager may make written submissions to the

- Secretary concerning the proposed suspension, cancellation, or refusal to amend or renew within—
- (a) 20 working days after the date of the notice under subsection (1); or
  - (b) any longer period that the Secretary allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Secretary must consider any submissions made by the corporate society or the parties to the venue agreement, or the venue manager.
- (4) If the Secretary decides to suspend a licence, the Secretary must notify the corporate society or the parties to the venue agreement, and the venue manager of—
- (a) the date that the suspension takes effect; and
  - (b) the suspension period (up to 6 months); and
  - (c) the reason for the suspension; and
  - (d) the matters to be dealt with in order for the Secretary to consider withdrawing the suspension before the end of the suspension period; and
  - (e) the consequences of not dealing with the matters identified.
- (5) If the Secretary decides to cancel or refuse to amend or renew a licence, the Secretary must notify the corporate society or the parties to the venue agreement, and the venue manager of,—
- (a) for a cancellation, the date on which the cancellation takes effect and the reason for the cancellation; or
  - (b) for a refusal to amend or renew, the reason for the refusal.
- (6) If subsection (4) or subsection (5) applies, the Secretary must also notify the corporate society or the parties to the venue agreement, and the venue manager of—
- (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 77.

**76 Consequences of suspension, cancellation, or refusal to amend or renew class 4 venue licence**

- (1) The suspension or cancellation of, or refusal to amend or renew, a class 4 venue licence does not affect—

- (a) the obligation of the corporate society to apply or distribute the net proceeds from the class 4 gambling in accordance with this Act and the licence; and
  - (b) any condition added to the licence by the Secretary relating to records that must be maintained and reporting requirements.
- (2) The Secretary may decide to withdraw a suspension before the end of the suspension period if the reasons for the suspension are resolved to the satisfaction of the Secretary.
  - (3) The Secretary may decide to cancel a suspended licence at the end of the suspension period if the reasons for the suspension are not resolved to the satisfaction of the Secretary.
  - (4) Section 75(5) and (6) apply to the cancellation of a suspended licence.
  - (5) Subject to section 78, a licence that is suspended or cancelled or refused to be renewed or amended remains in force or unchanged (as the case may be) until the period for making an appeal expires.
  - (6) A corporate society is not entitled to a refund of fees, taxes, or levies paid in relation to class 4 gambling if the Secretary suspends, cancels, or refuses to amend or renew its class 4 venue licence.

**77 Appeal to Gambling Commission regarding class 4 venue licence**

- (1) A corporate society or, if there is a venue agreement, the parties to the agreement, and the venue manager may appeal to the Gambling Commission against a decision of the Secretary to—
  - (a) refuse to grant a class 4 venue licence to the corporate society; or
  - (b) amend or revoke a condition of the licence, or add a new condition to it; or
  - (c) refuse an application by the corporate society for the renewal of a class 4 venue licence; or
  - (d) refuse to amend a class 4 venue licence held by the corporate society; or
  - (e) suspend or cancel a class 4 venue licence held by the corporate society.
- (2) An appeal must be in writing and must be made within—

- (a) 15 working days after the date of the notice of the Secretary's decision; or
  - (b) any longer period that the Gambling Commission allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Gambling Commission—
- (a) may request any information from the corporate society or the parties to the agreement or the venue manager or the Secretary; and
  - (b) is not bound to follow any formal procedure; and
  - (c) does not need to hold a hearing; and
  - (d) must consider any information provided by the corporate society, or the parties to the venue agreement, and the venue manager and the Secretary.
- (4) The Gambling Commission may—
- (a) confirm, vary, or reverse the decision of the Secretary; or
  - (b) refer the matter back to the Secretary with directions to reconsider the decision.
- (5) The Gambling Commission must give notice of its decision, with reasons, to the corporate society, or the parties to the venue agreement, and the venue manager and the Secretary.

### **78 Consequences of appeal regarding class 4 venue licence**

- (1) The conditions of a class 4 venue licence remain unchanged pending the outcome of an appeal if the appellant appeals an amendment or revocation of a condition or the addition of a new condition under section 77(1)(b).
- (2) A class 4 venue licence remains in force until—
- (a) the expiry of the period for an appeal under section 77(2); or
  - (b) the outcome of an appeal, if the appellant—
    - (i) appeals a refusal to renew or amend the licence under section 77(1)(c) or (d); or
    - (ii) appeals a decision to suspend or cancel the licence under section 77(1)(e).

#### *Other matters*

### **79 Surrender of class 4 venue licence**

- (1) A corporate society—

- (a) must surrender a class 4 venue licence to the Secretary in the circumstances described in section 71(1)(g);
  - (b) may surrender a class 4 venue licence to the Secretary at any other time.
- (2) The surrender of a class 4 venue licence does not affect—
- (a) the obligation of the corporate society to apply or distribute the net proceeds from the gambling in accordance with this Act and the licence; and
  - (b) any condition relating to records that must be maintained and reporting requirements.

### **80 Class 4 venue licence not transferable**

A class 4 venue licence is not transferable.

### **81 Complaints to Secretary**

- (1) This section applies if a person makes a complaint to the Secretary about the conduct of class 4 gambling at a particular venue or by the holder of a class 4 operator's licence.
- (2) The Secretary must, as soon as practicable after receiving a complaint, investigate the complaint and notify the complainant, if possible, as to whether any action has been, or will be, taken in respect of the complaint and the nature of any action taken.
- (3) The complainant may complain to the Gambling Commission about the way the Secretary has handled the complaint.
- (4) The Gambling Commission must then—
  - (a) require the Secretary to provide a report about the way the complaint was handled; and
  - (b) consider the matter in light of the Secretary's report; and
  - (c) report to the Minister about the matter if the Gambling Commission considers that the Secretary did not handle the complaint appropriately; and
  - (d) notify the complainant and the Secretary of its view and any report to the Minister.

### **82 Certain information must be displayed at class 4 venue**

- (1) The holder of a class 4 venue licence must display at the class 4 venue the following information:



- (a) the commencement date and expiry date of the class 4 venue licence;
  - (b) contact details for the holder of the class 4 venue licence;
  - (c) if the net proceeds from gambling at the class 4 venue are distributed to the community,—
    - (i) details of how and where to apply for a grant of net proceeds; and
    - (ii) details of where to complain if an application for a grant of net proceeds is unsuccessful; and
    - (iii) a statement that the law does not permit venue personnel to be involved in decisions about, or to manage or provide applications for, grants to the community;
  - (d) that complaints about the conduct of gambling in the venue or the conduct of a holder of a class 4 operator's licence may be made to the Secretary.
- (2) If a class 4 venue agreement is not required in respect of the class 4 venue under section 65(3) or (4), the information must be displayed at all times on a sign in the immediate area where gaming machines are located.
- (3) For all other class 4 venues, the information must be displayed at all times—
- (a) on a sign in the immediate area where gaming machines are located; and
  - (b) on a sign that can be easily read by persons immediately outside each principal entrance.
- (4) The holder of a class 4 venue licence who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

### **83 Obligation on disposal of gaming machines**

- (1) The holder of a class 4 operator's licence must provide the following information to the Secretary within 20 working days of disposing of a gaming machine:
- (a) the means of disposal; and
  - (b) the name of the acquirer of the gaming machine and the details necessary to contact the acquirer with ease.
- (2) The 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.

**84 Prohibition on certain gaming machines in class 4 venue**

- (1) On and from the date that is 6 months after the commencement of this section, the holder of a class 4 venue licence must not operate, or allow to be operated, at the class 4 venue a gaming machine that is able to accept banknotes with a denomination greater than \$20.
- (2) The holder of a class 4 venue licence who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

*Disabling gambling equipment and electronic monitoring of gaming machines***85 Disabling gambling equipment**

- (1) The Secretary may disable or seal gambling equipment, without prior notice to the holder of the class 4 operator's licence or class 4 venue licence, the venue operator, or the venue manager, if the Secretary believes, on reasonable grounds, that the gambling equipment does not comply with minimum standards, or is faulty, or has been tampered with.
- (2) The Secretary must enable or unseal gambling equipment if the Secretary no longer believes, on reasonable grounds, that the gambling equipment does not comply with minimum standards, or is faulty, or has been tampered with or the Secretary is satisfied that the problem has been, or will be, rectified.
- (3) A disablement or subsequent enablement may—
  - (a) be effected manually or by means of an electronic monitoring system; and
  - (b) result from a decision of the Secretary or occur automatically by the operation of an electronic monitoring system.
- (4) A disablement or sealing is not a suspension or cancellation of a class 4 operator's licence or a class 4 venue licence.
- (5) The Secretary may disable or subsequently enable—
  - (a) a particular item of gambling equipment at a venue; or
  - (b) all gambling equipment at a venue; or
  - (c) all or some gambling equipment at various venues.
- (6) If a fault in the electronic monitoring system or the telecommunications system used to operate the electronic monitoring system causes gambling equipment not to operate, the Crown

is not liable for any compensation to any person for loss or damage caused by the failure of the equipment to operate.

**86 Holder of class 4 operator's licence must connect to electronic monitoring system**

- (1) The holder of a class 4 operator's licence must connect gaming machines under the holder's control to an electronic monitoring system specified by the Secretary in a notice to the holder.
- (2) The holder of a class 4 operator's licence—
  - (a) must bear the cost of replacing or upgrading gambling equipment in order to enable the connection of gaming machines to an electronic monitoring system; and
  - (b) may be required by the Secretary to bear the cost of equipping or upgrading a class 4 venue for which it holds a licence in order to enable the connection of gaming machines to an electronic monitoring system.
- (3) The holder of a class 4 operator's licence must comply with subsection (1) by the date or dates notified to that holder by the Secretary, and the Secretary may notify particular dates that apply—
  - (a) to particular societies or classes of society:
  - (b) to particular class 4 venues or classes of class 4 venues.
- (4) However, the date or dates notified by the Secretary must not be later than 3 years and 6 months after the date that this Act receives the Royal assent.
- (5) The holder of a class 4 operator's licence must not operate gaming machines after the date or dates notified to the holder by the Secretary unless the machines are connected to an electronic monitoring system specified by the Secretary.

**87 Functions of electronic monitoring system**

- (1) The Secretary may use an electronic monitoring system for, amongst other things,—
  - (a) monitoring and receiving information about—
    - (i) the funds used to gamble on gaming machines and the destination of those funds:
    - (ii) the number and location of gaming machines:
    - (iii) the potential of gaming machines for problem gambling:
    - (iv) faults with gaming machines:

- (v) tampering with gaming machines:
  - (vi) suspected contraventions of this Act:
  - (b) controlling gaming machines:
  - (c) disabling or enabling gaming machines.
- (2) Any statistical information that is collated by the Secretary from information received under subsection (1)(a) must be made available on the Department's website, or in another electronic form that is easily accessible to the public, within a reasonable time after that information is collated.

### **88 Secretary may select monitor**

The Secretary may appoint 1 person that the Secretary considers to be suitable to implement and operate an electronic monitoring system.

#### *Particular limits on numbers of gaming machines*

### **89 Notification required**

- (1) A society that operates gaming machines on the commencement of this section must notify the Secretary, in the manner that the Secretary reasonably requests, within 1 month after the commencement of this section of—
- (a) the class 4 venues where the gaming machines were lawfully operated (on the day 3 days after the commencement of this section); and
  - (b) the number of gaming machines lawfully operated at each class 4 venue (on the day 3 days after the commencement of this section); and
  - (c) the serial number and model of each gaming machine at each class 4 venue (on the day 3 days after the commencement of this section).
- (2) If the Secretary decides to cancel a class 4 operator's licence because a society has not complied with subsection (1)—
- (a) the Secretary is not required to follow the cancellation procedure under section 59; and
  - (b) the Secretary must notify the society that the class 4 operator's licence is cancelled from the date of notification; and
  - (c) there is no right of appeal from the decision.

**90 Register of class 4 venue licences must be maintained**

- (1) The Secretary must maintain a register of places for which a class 4 venue licence was held on 17 October 2001.
- (2) The Secretary must make an entry in the register if, at any time after 17 October 2001, there is a period of 6 months or more during which there is no class 4 venue licence for a class 4 venue to which subsection (1) applies.

**91 No compensation**

No compensation is payable by the Crown or a territorial authority to any person for any loss or damage arising from the enactment or operation of sections 89 to 101.

**92 Limit on number of gaming machines for which class 4 venue licence held on 17 October 2001**

- (1) This section applies to a class 4 venue for which—
  - (a) a class 4 venue licence was held on 17 October 2001; and
  - (b) there has not been a period of 6 months or more since 17 October 2001 when no class 4 venue licence was held.
- (2) A society must not operate more than 18 gaming machines at a class 4 venue.
- (3) The number of gaming machines notified to the Secretary under section 89(1), and the models and serial numbers of the gaming machines, must be treated as a condition of the class 4 venue licence and the society must not change the gaming machines, or operate more than that number of gaming machines at the venue, unless—
  - (a) a new class 4 venue licence is obtained that allows the change; or
  - (b) the licence is amended to allow the change.
- (4) The limit in subsection (2) and the condition as to number imposed under subsection (3) may be overridden under section 95 or reduced by regulations made under section 314(1)(a).

**93 Limit on number of gaming machines for which class 4 venue licence granted after 17 October 2001 but before commencement**

- (1) This section applies to a class 4 venue—

- (a) to which section 92 does not apply; and
  - (b) for which a class 4 venue licence is held that was granted after 17 October 2001 but before the commencement of this section.
- (2) A society must not operate more than 9 gaming machines at a class 4 venue.
- (3) A society must remove from a class 4 venue the number of gaming machines that exceed 9 by the close of the day after the commencement of this section.
- (4) A society must also apply for a territorial authority consent for a class 4 venue within 6 months after the commencement of this section.
- (5) A society must, within 15 working days after receiving notification of the territorial authority's determination of an application for a territorial authority consent,—
  - (a) provide a copy of the determination to the Secretary; and
  - (b) remove from the class 4 venue—
    - (i) all gaming machines if the territorial authority refuses consent; or
    - (ii) the number of gaming machines that exceeds the maximum number specified in any condition of the consent if the maximum number specified is less than 9.
- (6) The Secretary must amend a class 4 venue licence as necessary to reflect the number of gaming machines that the society may operate as a result of subsections (3) and (5).
- (7) If the Secretary decides to cancel a class 4 venue licence because the society has not applied for a territorial authority consent in accordance with subsection (4) or the territorial authority refuses consent—
  - (a) the Secretary is not required to follow the cancellation procedure under section 75; and
  - (b) the Secretary must notify the society or the parties to any venue agreement, and the venue manager that the class 4 venue licence is cancelled from the date of notification; and
  - (c) there is no right of appeal from the decision.
- (8) The number of gaming machines notified to the Secretary under section 89(1), and the models and serial numbers of the

gaming machines, must be treated as a condition of the class 4 venue licence and the society must not change the gaming machines, or operate more than that number of gaming machines at the venue, unless—

- (a) a new class 4 venue licence is obtained that allows the change; or
  - (b) the licence is amended to allow the change.
- (9) The limit in subsection (2) and the condition as to number imposed under subsection (8) may be overridden under section 96, or reduced by regulations made under section 314(1)(a).

**94 Limit on number of gaming machines for venue with venue licence granted after commencement**

- (1) This section applies to a class 4 venue—
  - (a) to which section 92 does not apply; and
  - (b) for which a class 4 venue licence is granted after the commencement of this section.
- (2) A corporate society must not operate at a class 4 venue more than the greater of—
  - (a) 9 gaming machines; or
  - (b) the number of gaming machines approved by the Minister under section 96.
- (3) The limits in subsection (2) may be reduced by regulations made under section 314(1)(a).

**95 Ministerial discretion to permit more gaming machines if clubs merge**

- (1) This section applies to 2 or more corporate societies that the Minister is satisfied are clubs and—
  - (a) 2 or more of which hold class 4 venue licences; and
  - (b) can each demonstrate a significant history of—
    - (i) operating as clubs for club purposes; and
    - (ii) operating the number of machines specified in any class 4 venue licences held immediately before making an application to the Minister under subsection (2); and
  - (c) can each demonstrate that they intend to merge into a single club operating at a single class 4 venue to which section 92 applies; and

- (d) can demonstrate to the Minister's satisfaction that the proposed class 4 venue is not a commercial premises; and
  - (e) can demonstrate to the Minister's satisfaction that the merged club will have a substantial active membership; and
  - (f) have obtained a territorial authority consent for the venue, either without a condition on numbers of gaming machines or with a condition on numbers that is consistent with the number of gaming machines that it is proposed to operate at the venue.
- (2) The corporate societies may apply jointly to the Minister for approval to operate up to the number of gaming machines consented to by the territorial authority at the proposed venue.
- (3) The Minister may approve an application under subsection (2) as the Minister thinks fit, but may not consider an application before the earlier of the following dates:
- (a) when an electronic monitoring system approved by the Secretary is operating at the proposed venue:
  - (b) 1 January 2005.
- (4) The Minister's approval must specify the number of gaming machines that may be operated, but the number—
- (a) must not exceed the number of gaming machines specified in a territorial authority consent; and
  - (b) must not in any case exceed the lesser of—
    - (i) 30; or
    - (ii) the sum of the number of gaming machines specified in all of the corporate societies' class 4 venue licences at the time of the application.
- (5) The corporate societies may then apply jointly to the Secretary for a class 4 venue licence for the proposed venue in accordance with section 65, but the Secretary must not issue a class 4 venue licence until the corporate societies have—
- (a) merged; and
  - (b) obtained a class 4 operator's licence.
- (6) On issue of the class 4 venue licence,—
- (a) the Secretary must cancel the previous class 4 venue licences held by the corporate societies, and there is no right of appeal against that cancellation; and
  - (b) the Secretary must not consider an application for a class 4 venue licence for any of the venues for which



the corporate societies held class 4 venue licences within 6 months after the cancellation.

- (7) The limits in subsection (4) may be reduced by regulations made under section 314(1)(a).

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

- (1) This section applies to a corporate society that the Minister is satisfied is a club that proposes to operate gaming machines at a class 4 venue and to which section 92 does not apply and that—
- (a) holds a class 4 operator's licence; and
  - (b) can demonstrate a significant history of—
    - (i) operating as a club for club purposes; and
    - (ii) operating the number of machines specified in any class 4 venue licence held immediately before making an application to the Minister under subsection (2); and
  - (c) can demonstrate to the Minister's satisfaction that the proposed class 4 venue is not a commercial premises; and
  - (d) can demonstrate to the Minister's satisfaction that it has a substantial active membership; and
  - (e) has obtained a territorial authority consent for the venue, either without a condition on numbers of machines or with a condition on numbers that is consistent with the number of machines that it is proposed to operate at the venue.
- (2) The corporate society may apply to the Minister for approval to operate up to 18 gaming machines at the proposed venue.
- (3) The Minister may approve an application under subsection (2) as the Minister thinks fit, but may not consider an application before the earlier of the following dates:
- (a) when an electronic monitoring system approved by the Secretary is operating at the proposed venue;
  - (b) 1 January 2005.
- (4) The Minister's approval must specify the number of gaming machines that may be operated but the number—
- (a) must not exceed the number of gaming machines specified in the territorial authority consent; and
  - (b) must not in any case exceed 18.

- (5) The corporate society may then apply to the Secretary for a class 4 venue licence for the venue in accordance with section 65 or, if it holds a class 4 venue licence for the venue, an amendment to the licence in accordance with section 73.
- (6) The limits in subsection (4) may be reduced by regulations made under section 314(1)(a).

**97 Power to issue, renew, or amend class 4 licence may be overridden**

The Secretary's power to issue, renew, or amend a class 4 operator's licence or class 4 venue licence may be overridden by regulations made under section 314.

*Territorial authority consent*

**98 When territorial authority consent is required**

A territorial authority consent is required in the following circumstances:

- (a) if a society proposes to increase the number of 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 section 96):
- (b) unless paragraph (c) or paragraph (d) applies, the first time there is an application for a class 4 venue licence for a venue for which a class 4 venue licence was not held on 17 October 2001:
- (c) if a corporate society applies for a class 4 venue licence and a class 4 venue licence has not been held by any society for the venue within the last 6 months:
- (d) on the commencement of this section, in accordance with section 93 for a class 4 venue—
  - (i) to which section 92 does not apply; and
  - (ii) for which there is a class 4 venue licence granted after 17 October 2001 and before the commencement of this section.

**99 Application for territorial authority consent**

- (1) An application for a territorial authority consent must be made to the territorial authority for the district in which the class 4 venue is, or will be, located.

- (2) The application must be accompanied by the information required by the territorial authority to enable it to consider the application properly.

**100 Considering and determining application for territorial authority consent**

- (1) A territorial authority must—
  - (a) consider an application for a territorial authority consent in accordance with its gambling venue policy; and
  - (b) then either—
    - (i) grant a consent with or without a condition specifying the maximum number of gaming machines that may be operated at the venue; or
    - (ii) not grant a consent.
- (2) However, if a corporate society applies for a territorial authority consent for an amendment to a class 4 venue licence to allow an increase in the number of gaming machines that may be operated at a venue, a territorial authority—
  - (a) must consider and determine the application in accordance with subsection (1); but
  - (b) may not include a condition specifying a maximum number of machines that may be operated at the venue that is fewer than the number of machines that may be operated currently at the venue.
- (3) The territorial authority must notify the applicant of its determination within 30 working days after the later of—
  - (a) the date of receipt of the application; or
  - (b) the date that it adopts a gambling venue policy.
- (4) A territorial authority must not consider an application for a territorial authority consent before it has a gambling venue policy.

**101 Territorial authority must adopt class 4 venue policy**

- (1) A territorial authority must, within 6 months after the commencement of this section, adopt a policy on class 4 venues.
- (2) In adopting a policy, the territorial authority must have regard to the social impact of gambling within the territorial authority district.
- (3) The policy—

- (a) must specify whether or not class 4 venues may be established in the territorial authority district and, if so, where they may be located; and
  - (b) may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue.
- (4) In determining its policy on whether class 4 venues may be established in the territorial authority district, where any venue may be located, and any restrictions on the maximum number of gaming machines that may be operated at venues, the territorial authority may have regard to any relevant matters, including:
- (a) the characteristics of the district and parts of the district:
  - (b) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities:
  - (c) the number of gaming machines that should be permitted to operate at any venue or class of venue:
  - (d) the cumulative effects of additional opportunities for gambling in the district:
  - (e) how close any venue should be permitted to be to any other venue:
  - (f) what the primary activity at any venue should be.

## **102 Adoption and review of class 4 venue policy**

- (1) A policy on class 4 venues under section 101 must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002 and, for the purpose of subsection (1)(e) of that section, the territorial authority must give notice of the proposed policy, in a manner that the territorial authority considers appropriate, to—
- (a) each society that holds a class 4 venue licence for a venue in the territorial authority district; and
  - (b) organisations representing Māori in the territorial authority district.
- (2) A policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.
- (3) Subsection (1)(b) does not affect the ability of a territorial authority to take similar action in respect of any other population group.

- (4) A territorial authority must, as soon as practicable after adopting, amending, or replacing a policy, provide a copy of the policy to the Secretary.
- (5) A territorial authority must complete a review of a policy within 3 years after the policy is adopted and then within 3 years after that review and each subsequent review is completed.
- (6) A policy does not cease to have effect because it is due for review or being reviewed.

**103 Provision of information relating to class 4 venues in territorial authority district**

On request from a territorial authority, the Secretary must provide—

- (a) the name and address of each society that holds a class 4 venue licence for a venue in the territorial authority district; and
- (b) the name and address of each class 4 venue in the territorial authority district and the number of gaming machines permitted to operate there.

*Net proceeds and costs of class 4 gambling*

**104 Gaming machine profits must be banked**

- (1) A venue manager must bank all gaming machine profits from class 4 gambling into a dedicated account at a registered bank in the name of the holder of the class 4 operator's licence.
- (2) The gaming machine profits must be banked within the time frame specified in regulations made under section 371 or, if no time frame is specified, as soon as reasonably practicable.
- (3) If a venue manager contravenes this section, the holder of the class 4 operator's licence—
  - (a) must take immediate steps to disconnect all gaming machines at the class 4 venue and advise the Secretary of the disconnection; and
  - (b) must not reconnect the gaming machines at the venue until the gaming machine profits have been banked.
- (4) A person who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

- (5) In this section and section 105, **gaming machine profits** has the same meaning as in section 12B of the Gaming Duties Act 1971.

**105 Interest, etc, on gaming machine profits**

- (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 to or banked into (as the case may be) a dedicated account in the name of the class 4 operator at a registered bank.
- (2) The interest, investment return, or proceeds must be banked within the time frame specified in regulations made under section 371 or, if no time frame is specified, as soon as reasonably practicable.
- (3) Unless the Secretary gives consent to the interest, investment return, or proceeds being transferred to another bank account, the funds must remain in the dedicated account specified in subsection (1) until the class 4 operator applies the funds—
- (a) to meet the costs of the class 4 gambling operation; or
  - (b) to an authorised purpose.
- (4) 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.

**106 Corporate society must apply or distribute net proceeds from class 4 gambling to or for authorised purpose**

- (1) A corporate society must apply or distribute the net proceeds from class 4 gambling only to or for an authorised purpose specified in the corporate society's licence.
- (2) A corporate society that fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- (3) A Court that convicts a corporate society of an offence under this section may—
- (a) make whatever orders are necessary to recover an amount of proceeds wrongly applied or distributed or to safeguard an amount not applied or distributed; and

- (b) order the application or distribution of an amount of proceeds not yet distributed.
- (4) The effect of a conviction under this section is that—
  - (a) the class 4 operator's licence and all class 4 venue licences held by the corporate society are cancelled; and
  - (b) the corporate society does not have a right to appeal the cancellation.

#### **107 Corporate society must provide annual report to Secretary**

- (1) A corporate society must, not later than 3 months after the end of its financial year, provide to the Secretary an annual report on the conduct of class 4 gambling by the corporate society during the financial year.
- (2) The annual report must include—
  - (a) the information described in section 108; and
  - (b) an auditor's report on the information contained in the report.
- (3) The first financial year for which a corporate society must provide an annual report is the financial year that commences after the commencement of this section.
- (4) The requirements of this section are in addition to any other reporting requirements imposed on the corporate society in or under this Act or any other enactment.
- (5) This section does not limit the Secretary's power to require other financial information in accordance with this Act.
- (6) In this section, **auditor** means,—
  - (a) in the case of a public entity under the Public Audit Act 2001, the Auditor-General; or
  - (b) in any other case, a person who is eligible to be appointed as an auditor under section 199 of the Companies Act 1993.

#### **108 Contents of annual report**

- (1) An annual report must include an itemised statement of the application or distribution of net proceeds from class 4 gambling for authorised purposes, and,—
  - (a) in the case of a reporting entity under the Financial Reporting Act 1993, financial statements required by that Act; or

- (b) in any other case, financial statements prepared in accordance with generally accepted accounting practice.
- (2) In this section,—
- approved financial reporting standard** has the same meaning as in section 2(1) of the Financial Reporting Act 1993
- generally accepted accounting practice** means—
- (a) relevant approved financial reporting standards; and
  - (b) in relation to matters for which no provision is made in approved financial reporting standards and that are not subject to any applicable rule of law, accounting policies that—
    - (i) are appropriate to the corporate society; and
    - (ii) have authoritative support within the accounting profession in New Zealand.

**109 Annual review of criteria for distribution of net proceeds**

A corporate society that operates mainly to distribute net proceeds to the community must, at least annually, review the criteria, methods, systems, and policies it uses for consideration of applications for the distribution of net proceeds.

**110 Publication requirements for corporate societies**

- (1) This section applies to a corporate society that conducts class 4 gambling mainly to distribute net proceeds to the community.
- (2) A corporate society must publish, at intervals of not more than 3 months, the availability of net proceeds for authorised purposes.
- (3) A corporate society must publish, at least 1 month before any net proceeds are distributed through grants to the community,—
  - (a) details of where to obtain an application form for a grant, who will consider applications, and the criteria against which they will be considered; and
  - (b) the names of the persons who hold office in the corporate society and a brief summary of their background; and



- (c) the process that the corporate society follows for dealing with complaints regarding distribution of proceeds.
- (4) A corporate society must publish at least annually, or more frequently if specified in regulations made under section 114,—
  - (a) details of all applications received from persons or groups in the community for grants of net proceeds from class 4 gambling during that year and whether the applications have been accepted or declined; and
  - (b) the amount of net proceeds from class 4 gambling granted, if any, in each case; and
  - (c) the results of the corporate society's annual review of the criteria, methods, systems, and policies it uses for considering the distribution of net proceeds from class 4 gambling.
- (5) A corporate society that fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (6) For the purposes of this section, **publish** means—
  - (a) publish in at least 1 newspaper; and
  - (b) as specified by regulations made under section 114.

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

- (1) A corporate society that has not conducted 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) apply or distribute remaining net proceeds from its class 4 gambling within 20 working days of the cessation; and
  - (b) report to the Secretary, on the relevant standard form, on—
    - (i) the turnover of the gambling, and proceeds from the sale of fittings, chattels, and gambling equipment purchased from that turnover or investment return; and
    - (ii) the final application or distribution of net proceeds from class 4 gambling under this section.

- (2) A corporate society that fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

### **112 Orders regarding application or distribution of net proceeds**

- (1) The Secretary may apply for orders in accordance with subsections (2) and (3) if—
- (a) a corporate society ceases to conduct class 4 gambling, whether temporarily or permanently; or
  - (b) a corporate society fails to apply or distribute net proceeds from class 4 gambling within a time period prescribed by regulations made under section 114; or
  - (c) the Secretary considers that it is necessary in order to recover net proceeds from class 4 gambling that have been improperly paid to a person.
- (2) An application for an order must be made to—
- (a) the High Court if the net proceeds from class 4 gambling are, or are estimated to be, more than \$200,000; or
  - (b) the District Court if the net proceeds from class 4 gambling are, or are estimated to be, \$200,000 or less.
- (3) On application by the Secretary under this section, the High Court or the District Court may—
- (a) make whatever orders are necessary to recover an amount improperly paid out, applied, or distributed; or
  - (b) order the application or distribution of an amount not yet applied or distributed.

### **113 Key persons must not be involved in certain activities or decisions**

- (1) A key person in relation to a venue to which section 65(3) applies must not—
- (a) provide application forms for persons or groups in the community to complete in order to apply for grants of net proceeds from class 4 gambling; or
  - (b) be involved in decisions about, or in managing, the application or distribution of net proceeds from class 4 gambling conducted by a corporate society that operates at the venue (whether or not the net proceeds derive from that venue); or

- (c) provide, or be involved in decisions about who will provide, to the corporate society that conducts class 4 gambling at the venue, goods or services other than services listed in the class 4 venue agreement; or
  - (d) provide, or be involved in decisions about who will provide, goods or services to recipients of grants of net proceeds from class 4 gambling conducted by a corporate society at the venue if the goods or services constitute at least part of the authorised purpose for which net proceeds were granted; or
  - (e) be involved in decisions about who will provide goods or services to recipients of grants of net proceeds from class 4 gambling conducted by a corporate society that operates at the venue (whether or not the net proceeds derive from that venue) if the goods or services constitute at least part of the authorised purpose for which net proceeds were granted.
- (2) A key person in relation to a venue who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- (3) A key person in relation to an operator's licence or the holder of a class 4 operator's licence who knowingly allows a key person in relation to a venue to contravene this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

**114 Regulations regarding application or distribution of net proceeds from class 4 gambling**

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes relating to the application and distribution of net proceeds from class 4 gambling:
- (a) prescribing the amount (or a minimum amount) that a corporate society must apply or distribute to or for authorised purposes, and that amount may be prescribed as a specific amount or as a percentage (for example, as a percentage of turnover, player expenditure, or net proceeds):
  - (b) prescribing a time period within which the application or distribution of net proceeds from class 4 gambling must occur:

- (c) prescribing requirements for advertising the availability of net proceeds from class 4 gambling for distribution:
  - (d) prescribing requirements for the methods and processes used to deal with applications for the distribution of net proceeds from class 4 gambling:
  - (e) prescribing requirements for the publication of information about the application and distribution of net proceeds from class 4 gambling, including what amounts to publication for the purposes of section 110:
  - (f) prescribing other requirements concerning the management, application, or distribution of net proceeds.
- (2) Regulations made under subsection (1) may apply—
- (a) to specified licence holders or classes of licence holder; or
  - (b) in respect of specified venues or classes of venue; or
  - (c) in respect of specified gambling equipment or classes of gambling equipment; or
  - (d) in respect of specified games or classes of games.

#### **115 Payment of commission prohibited**

- (1) The payment of, or receipt of, commission by any person for conducting class 4 gambling is prohibited.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

#### **116 Secretary may limit or exclude costs of corporate society**

- (1) The Secretary may, by notice in the *Gazette*, set limits on, or exclude, the costs that may be incurred by a corporate society that conducts class 4 gambling.
- (2) The costs that may be limited or excluded by the Secretary include the following:
  - (a) costs associated with the class 4 venue, including salary or wages paid to a key person or another person for work associated with class 4 gambling at the venue, whether or not they are costs identified in the class 4 venue agreement:
  - (b) costs associated with repairing and maintaining gambling equipment:
  - (c) costs of operating the corporate society, including fees, salary, expenses, or other payments to a key person or

another person involved in operating the corporate society.

- (3) A notice under subsection (1) may apply—
  - (a) to specified licence holders or classes of licence holder; or
  - (b) in respect of specified venues or classes of venue; or
  - (c) in respect of specified gambling equipment or classes of gambling equipment; or
  - (d) in respect of specified games or classes of games.
- (4) A limit may be expressed in any way that the Secretary considers appropriate, including the following:
  - (a) as a specific amount;
  - (b) as a percentage;
  - (c) as an amount for each gaming machine.
- (5) A contract or other arrangement or obligation entered into by a corporate society, whether before or after the passage of this Act, that does not comply with limits set under subsection (1) is an illegal contract for the purposes of the Illegal Contracts Act 1970.
- (6) A notice by the Secretary under subsection (1)—
  - (a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989; but
  - (b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

**117 Secretary may investigate and audit licensees, grant recipients, and businesses at class 4 venues**

- (1) The Secretary may, to the extent that is necessary to determine compliance with this Act, investigate and audit the generation and distribution of the proceeds from class 4 gambling, which may include—
  - (a) an investigation and audit of the holder of a class 4 operator's licence or a class 4 venue licence;
  - (b) an investigation and audit of a grant recipient;
  - (c) an investigation and audit of a business operating at a class 4 venue.
- (2) The persons referred to in subsection (1) must provide any information required by the Secretary for the purpose of carrying out an investigation or audit under that subsection.

- (3) The Secretary may publish, or require the corporate society to publish, in the form that the Secretary considers appropriate—
  - (a) the results of the investigation and audit:
  - (b) a summary of the results of the investigation and audit with details of where to obtain the full results.
- (4) The Secretary may recover the costs of investigating or auditing from the holder of class 4 operator's licences in accordance with regulations made under section 370.
- (5) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

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

- (1) A holder of, or key person in relation to, a class 4 operator's licence or a class 4 venue licence must not knowingly receive or seek money, a benefit, an advantage, a privilege, or a gift from the following persons if the receipt has a condition attached to it and whether the receipt or condition is direct, indirect, formal, informal, or otherwise:
  - (a) a grant recipient or potential grant recipient:
  - (b) a person that sells, repairs, services, or maintains gambling equipment.
- (2) A key person in relation to a class 4 venue licence must not knowingly receive or seek money, a benefit, an advantage, privilege, or gift from the following persons, if the receipt has a condition attached to it and whether the receipt or condition is direct, indirect, formal, informal, or otherwise:
  - (a) a holder of a class 4 operator's licence if the holder operates at that venue:
  - (b) a key person in relation to a class 4 operator's licence if the holder operates at that venue.
- (3) A holder of, or key person in relation to, a class 4 operator's licence, or person that sells, repairs, services or maintains gambling equipment must not knowingly offer money, a benefit, an advantage, a privilege, or a gift to the following persons if the receipt has a condition attached to it and whether the receipt or condition is direct, indirect, formal, informal, or otherwise:
  - (a) a grant recipient or potential grant recipient:
  - (b) a key person in relation to a class 4 venue licence.

- (4) Subsections (2) and (3) do not prevent the holder of a class 4 operator's licence paying a key person in relation to a class 4 venue costs associated with the class 4 venue if the costs—
  - (a) do not exceed the amounts specified in any venue agreement; and
  - (b) do not exceed the limits in section 116; and
  - (c) are otherwise lawful.
- (5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- (6) To avoid doubt, this section applies whether—
  - (a) the condition is attached either before or after the money is received by the person concerned; or
  - (b) any money is actually received by the person concerned.

### Subpart 5—Licensing of casino gambling

#### *General provisions*

#### **119 Requirements for casino gambling**

A casino may be operated only by a person who holds a casino operator's licence—

- (a) if the casino gambling occurs at a place for which the person also holds a casino venue licence; or
- (b) if the casino operator has an approved casino venue agreement with another person who holds a casino venue licence.

Compare: 1990 No 62 ss 20, 21

#### **120 Racing betting and sports betting in casinos**

- (1) Racing betting or sports betting in a casino that is conducted by the New Zealand Racing Board and that is authorised by, and complies with, the Racing Act 2003 must not be treated as casino gambling and, accordingly, is not subject to this subpart.
- (2) A casino licence holder must notify the Secretary within 10 working days after the licence holder enters into an agreement with the New Zealand Racing Board that allows the New Zealand Racing Board to conduct racing betting or sports betting in a casino.

**121 Casino branding**

- (1) Only the following persons may use in their branding the word casino, or any other word or get-up, in a way that conveys the impression that a place is a casino and accessible to the public:
  - (a) the holder of a casino licence that is not suspended:
  - (b) a person granted temporary authority to operate a casino under section 187:
  - (c) a person referred to in subsection (2) for the time specified in subsection (3).
- (2) Subsection (3) applies to persons (other than persons referred to in subsection (1)(a) and (b)) who, at the time this section commences, use in their branding the word casino, or any other word or get-up, in a way that conveys the impression that a place is a casino and accessible to the public.
- (3) Persons referred to in subsection (2) must cease using the word or get-up referred to in subsection (2) 18 months after the commencement of this section.
- (4) This section does not override other laws affecting branding and use of words and get-up.
- (5) A person who contravenes subsection (1) or subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

**122 Existing casino licences and agreements**

- (1) An existing casino operator's licence becomes, and must be treated as if it were, a casino operator's licence granted under section 130.
- (2) An existing casino premises licence becomes, and must be treated as if it were, a casino venue licence.
- (3) An existing casino venue agreement becomes, and must be treated as if it were, a casino venue agreement approved under section 133.

**123 Directions as to operating casinos**

Directions given by the Authority under section 70 of the Casino Control Act 1990 become, and must be treated as if they were, minimum operating standards specified under section 141.



**124 Suitability requirements**

- (1) A casino operator's licence must not be granted and a casino venue licence must not be renewed unless the Gambling Commission is satisfied that the applicant and persons with a significant influence are suitable.
- (2) In considering whether an applicant or person with a significant influence is suitable, the Gambling Commission must take into account the following matters:
  - (a) the honesty of the applicant or person with a significant influence, including—
    - (i) whether the applicant or person with a significant influence has been convicted of a relevant offence; and
    - (ii) whether the applicant or person with a significant influence has been disciplined by a professional body for ethical misconduct; and
    - (iii) whether the applicant or person with a significant influence has been disciplined in any way during previous involvement with a casino; and
    - (iv) any other matters raised in the police report, and the report of any Government agency to which the application is referred, provided under section 125; and
  - (b) the financial position of the applicant or person with a significant influence, including—
    - (i) whether the applicant or person with a significant influence has ever been adjudged bankrupt; and
    - (ii) whether the applicant or person with a significant influence has been directly involved in the management of a company that went into receivership or liquidation; and
    - (iii) whether the applicant or person with a significant influence has sufficient financial resources; and
  - (c) the business skills of the applicant or person with a significant influence, including—
    - (i) whether the applicant or person with a significant influence has sufficient business management experience; and
    - (ii) whether the applicant or person with a significant influence has sufficient experience in casino operation or the operation of similar ventures; and

- (iii) whether the applicant or person with a significant influence has qualifications relevant to the operation of a casino; and
- (d) the management structure of the applicant, including—
  - (i) whether that structure is suitably arranged for effective compliance with this Act; and
  - (ii) the nature of all relevant interests in the financial and management structure of the applicant; and
  - (iii) whether all such interests encourage the applicant's effective compliance with the Act; and
- (e) any other matter the Gambling Commission considers relevant.

Compare: 1990 No 62 s 23

## **125 Gambling Commission must investigate application concerning casino licences**

- (1) On receiving an application for a casino operator's licence or for renewal of a casino venue licence, or for approval of a proposed transferee or alienee of a casino licence, the Gambling Commission must investigate the applicant, the proposed transferee or alienee, and persons with a significant influence.
- (2) Without limiting subsection (1), the Gambling Commission—
  - (a) may require the applicant, the proposed transferee or alienee, and persons with a significant influence to consent to having their photograph and fingerprints taken; and
  - (b) may require the applicant, the proposed transferee or alienee, and persons with a significant influence to provide further information; and
  - (c) must refer a copy of the application, and any photographs, fingerprints, or other information obtained in the investigation, to the police and any Government agency (not including the Inland Revenue Department) that the Gambling Commission considers relevant.
- (3) The police and any Government agency to whom the application is referred must inquire into, and report to the Gambling Commission on, the applicant, the proposed transferee or alienee, and persons with a significant influence.
- (4) The Gambling Commission may refuse to grant a casino operator's licence or renew a casino venue licence or approve a

proposed transferee or alienee of a casino licence if the applicant, transferee or alienee, or persons with a significant influence fail to provide information requested by the Gambling Commission or refuse to have fingerprints or a photograph taken.

- (5) Fingerprints and photographs provided by the Gambling Commission to the police or other Government agency must be returned to the Gambling Commission for destruction under subsection (6).
- (6) Fingerprints and photographs required by the Gambling Commission must be destroyed immediately after the Gambling Commission has made a decision as to whether or not to grant a casino operator's licence or renew a casino venue licence or approve a proposed transferee or alienee of a casino licence.

Compare: 1990 No 62 s 24

#### **126 Mortgage or assignment of casino licence**

- (1) A holder of a casino licence may not mortgage, charge, or otherwise encumber a casino licence unless the proposed holder of, and the nature, terms, and conditions of, the mortgage, charge, or encumbrance are first approved by the Gambling Commission.
- (2) A casino licence may not be transferred or alienated as a result of a mortgage, charge, or encumbrance being enforced unless the proposed transferee or alienee and any person who has or is likely to have a significant influence has first been approved by the Gambling Commission.
- (3) A charge holder, mortgagee, or holder of an encumbrance, or the holder of the casino licence, may apply on the relevant form to the Gambling Commission for approval under subsection (1) or subsection (2).
- (4) In considering whether to approve a proposed transferee or alienee, and any person with a significant influence under subsection (2), the Gambling Commission must investigate the suitability of the proposed transferee or alienee, and person, in accordance with sections 124 and 125.

Compare: 1990 No 62 s 47

#### **127 Casino licence not transferable**

A casino licence is not transferable except under section 126.

*Casino operator's licence***128 Application for casino operator's licence**

- (1) A person may apply to the Gambling Commission for a licence to conduct casino gambling.
- (2) An application must be on the relevant form.

Compare: 1990 No 62 s 35

**129 Consideration of application**

- (1) On receiving an application under section 128, the Gambling Commission must investigate the applicant and any person with a significant influence under section 125.
- (2) In considering an application, the Gambling Commission must have regard to—
  - (a) the suitability of the applicant and persons with a significant influence; and
  - (b) the expertise of the applicant that is relevant to the obligations of the holder of a casino operator's licence; and
  - (c) whether the applicant has the business management experience to operate a casino successfully.

Compare: 1990 No 62 s 36

**130 Grant of casino operator's licence**

- (1) The Gambling Commission must not grant a casino operator's licence unless the Gambling Commission is satisfied that the applicant and any person with a significant influence is suitable in terms of section 124.
- (2) On granting a casino operator's licence, the Gambling Commission may specify any conditions that it considers appropriate under section 139.

Compare: 1990 No 62 s 37

**131 Expiry of casino operator's licence**

A casino operator's licence expires when—

- (a) the licensee surrenders the licence; or
- (b) the licence is cancelled by the Gambling Commission under section 145.

*Casino venue agreements***132 Approval of casino venue agreement**

- (1) Casino licence holders who propose to enter into a casino venue agreement must apply to the Gambling Commission for approval of the agreement before entering into it.
- (2) A party to a casino venue agreement who seeks to amend that agreement must apply to the Gambling Commission for approval of the amendment before the amendment is made.
- (3) An application for approval under subsection (1) or subsection (2) must be on the relevant form.

Compare: 1990 No 62 s 40

**133 Consideration of application**

- (1) An application under section 132 for the approval of a casino venue agreement or of an amendment to a casino venue agreement must be considered by the Gambling Commission.
- (2) The Gambling Commission may require the applicant to provide a copy of the proposed agreement and any other relevant information to assist the Gambling Commission to consider the application.
- (3) In considering an application, the Gambling Commission must have regard to any suitability requirements specified in section 124 that the Gambling Commission considers relevant.
- (4) The Gambling Commission must not approve a casino venue agreement or an amendment to a casino venue agreement unless it is satisfied that the agreement is conducive to the conduct of responsible gambling in the casino.
- (5) A casino venue agreement expires according to its terms or when—
  - (a) a party to the casino venue agreement surrenders the party's casino licence; or
  - (b) the casino venue licence expires and is not renewed; or
  - (c) a casino licence of a party is cancelled; or
  - (d) the Gambling Commission approves a new casino venue agreement; or
  - (e) the casino venue agreement is entered into or amended without the approval of the Gambling Commission.

Compare: 1990 No 62 ss 41–43

*Renewal of casino venue licence***134 Application for renewal of casino venue licence**

- (1) The holder of a casino venue licence may apply to the Gambling Commission to renew the licence.
- (2) An application under subsection (1) must be—
  - (a) made in the period that is at least 1 year but not more than 2 years before the date on which the licence is due to expire; and
  - (b) on the relevant form; and
  - (c) accompanied by a casino impact report.
- (3) A casino impact report must be prepared by a person approved by the Commission as independent of the applicant, and must—
  - (a) report on the expected social and economic effects on the local and regional areas affected by the operation of the casino, and on New Zealand generally, of—
    - (i) the continued operation of the casino; and
    - (ii) the closure of the casino; and
  - (b) report on matters identified by the Gambling Commission.
- (4) The Gambling Commission may specify the research to be undertaken in preparing a casino impact report.
- (5) The applicant for renewal of a casino venue licence must pay for the casino impact report.

**135 Process for determining applications for renewal**

- (1) After receiving an application for renewal of a casino venue licence, the Gambling Commission must do the following things, although not necessarily in the order given:
  - (a) investigate the applicant and persons with a significant influence under section 125 to determine whether they—
    - (i) are suitable, in terms of section 124; and
    - (ii) have complied with this Act and previous gaming Acts and regulations made under them:
  - (b) give public notice of the application:
  - (c) by public notice, invite written submissions on the application:
  - (d) by public notice, invite people who wish to appear and be heard at a public hearing to apply to the Gambling Commission for authorisation:

- (e) give public notice of the commencement of hearings, and of how people may find out where and when hearings are to be held:
  - (f) make available for public inspection, subject to any agreement between the applicant and the Gambling Commission regarding confidentiality, copies of the application, any amendments to it, the casino impact report, and any other relevant documentation:
  - (g) conduct a public hearing of the application at which evidence of the parties is heard and parties may examine and cross-examine witnesses:
  - (h) give public notice of the decision of the Gambling Commission:
  - (i) make copies of the decision available to the public.
- (2) The Gambling Commission may require the Secretary to report to it on the matters referred to in subsection (1)(a) as part of its investigation under that paragraph.
- (3) Subsection (1) sets out the minimum that the Gambling Commission must do to determine an application for renewal of a casino venue licence, but the Gambling Commission may take additional steps, or repeat or combine processes, as the Gambling Commission considers appropriate.
- (4) Persons or groups who satisfy the Gambling Commission that they represent a section of the community in which the casino is located are entitled to appear and be heard at the public hearing of the application in person or by counsel or agent.
- (5) In giving public notice under subsection (1), it is sufficient for the Gambling Commission to publish the notice twice, at intervals of not more than 14 days, in a major newspaper circulating in the locality of the casino to which the application relates.

Compare: 1990 No 62 ss 31, 34

### **136 Information and matters to be considered**

Before deciding whether to renew a casino venue licence, the Gambling Commission must consider—

- (a) the application; and
- (b) the casino impact report; and
- (c) any additional information or evidence provided by the applicant or person with a significant influence at the Gambling Commission's request; and

- (d) any written submissions and other written and oral evidence; and
- (e) the compliance record of the applicant and persons with a significant influence; and
- (f) any views conveyed by a local authority after an opinion poll or community consultation process; and
- (g) the results of investigations under section 125.

### **137 Renewal of casino venue licence**

- (1) The Gambling Commission must not renew a casino venue licence unless it is satisfied that—
  - (a) the applicant and persons with a significant influence are suitable in terms of section 124; and
  - (b) the applicant's compliance record, and that of persons with a significant influence, is satisfactory; and
  - (c) renewing the licence will result in a net benefit—
    - (i) to the local and regional communities around the casino; and
    - (ii) to New Zealand generally.
- (2) In assessing whether there is a net benefit, the Gambling Commission must consider—
  - (a) the social and economic effects of granting, or refusing to grant, the renewal; and
  - (b) the level of support for the application, including the result of any poll conducted by the local authority; and
  - (c) the nature and standard of the casino facilities.

### **138 Expiry of casino venue licence**

- (1) A casino venue licence expires 25 years after the date the casino commenced operating.
- (2) A licence that is renewed under section 137 expires 15 years after the date of renewal.
- (3) A casino venue licence may be renewed more than once.
- (4) A casino venue licence to which an application for renewal relates continues in force until the Gambling Commission decides whether or not to renew that licence.



*Amendment of casino licence***139 Conditions of casino licence**

- (1) The Gambling Commission may specify the conditions of a casino licence or vary or revoke the conditions of a casino licence in the following circumstances:
  - (a) on granting a casino operator's licence:
  - (b) on renewing a casino venue licence:
  - (c) on approving a casino venue agreement or an amendment to it:
  - (d) on application by the holder of the casino licence:
  - (e) on its own initiative or on the request of the Secretary.
- (2) A condition of a casino licence specified under subsection (1)—
  - (a) must be consistent with this Act; and
  - (b) must contribute to achieving the purposes of this Act; and
  - (c) must contribute to the efficient and effective administration of this Act; and
  - (d) must not permit an increase in the opportunities for casino gambling; and
  - (e) may relate to any matter, including the matters specified in Schedule 1, within the confines of paragraphs (a) to (d).

**140 Procedure for specifying, varying, or revoking casino licence conditions**

- (1) The Gambling Commission must notify the holder of the relevant casino licence, the Secretary, and any other person who it considers is affected by a proposal to specify, vary, or revoke the conditions of a casino licence.
- (2) Notification under subsection (1) must include—
  - (a) the reason for the proposal; and
  - (b) the procedure to be followed before the Gambling Commission makes a decision relating to the proposal.
- (3) The holder of the casino licence, the Secretary, and any other person affected may make written submissions to the Gambling Commission concerning the proposal within 20 working days after the date of the notice under subsection (1) or within any longer period that the Gambling Commission allows.

- (4) The Gambling Commission must consider any submissions made under subsection (3) and may, if it considers it appropriate, seek comment from the casino licence holder on the submissions received from the Secretary or other persons affected.
- (5) The Gambling Commission must notify the holder of the casino licence, the Secretary, and other persons affected of—
  - (a) its decision concerning the proposal and the reasons for the decision; and
  - (b) the right to appeal the decision and the process for an appeal.

#### **141 Minimum operating standards in casino licences**

- (1) The Secretary may specify the minimum operating standards for the day-to-day operation of a casino, for inclusion in a casino licence, or vary or revoke those standards, in the following circumstances:
  - (a) on the grant of a casino operator's licence:
  - (b) on the renewal of a casino venue licence:
  - (c) on the approval of a casino venue agreement or an amendment to it:
  - (d) on application by the holder of a casino licence:
  - (e) on the Secretary's own initiative.
- (2) Minimum operating standards must relate to any matter concerning the day-to-day operation of a casino, including (but not limited to) some or all of the matters specified in Schedule 2.

#### **142 Procedure for specifying, varying, or revoking minimum operating standards**

- (1) The Secretary must notify the holder of the relevant casino licence and other persons who the Secretary considers are affected by a proposal to specify, vary, or revoke the minimum operating standards of the casino licence.
- (2) Notification under subsection (1) must include—
  - (a) the reason for the proposal; and
  - (b) the procedure to be followed before the Secretary makes a decision relating to the proposal.
- (3) The holder of the casino licence and other persons affected may make written submissions to the Secretary concerning the proposal within 20 working days after the date of the

notice under subsection (1) or within any longer period that the Secretary allows.

- (4) The Secretary must consider any submissions made under subsection (3) and may, if he or she considers it appropriate, seek comment from the holder of the casino licence on the submissions received.
- (5) The Secretary must notify the holder of the casino licence and other persons affected of—
  - (a) the Secretary's decision concerning the proposal and the reasons for the decision; and
  - (b) the right to appeal the decision and the process for an appeal.

#### **143 Appeal to Gambling Commission**

- (1) The holder of a casino licence or other person affected may appeal to the Gambling Commission against a decision of the Secretary to specify, vary, or revoke, or to refuse to specify, vary, or revoke, the minimum operating standards of a casino licence.
- (2) An appeal must be made within—
  - (a) 15 working days after the date of the notice of the Secretary's decision; or
  - (b) any longer period that the Gambling Commission allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Gambling Commission—
  - (a) may request any information from the appellant or the Secretary; and
  - (b) is not bound to follow any formal procedure; and
  - (c) does not need to hold a hearing; and
  - (d) must consider any information provided by the appellant or the Secretary.
- (4) The Gambling Commission may then—
  - (a) confirm, vary, or reverse the decision of the Secretary; or
  - (b) refer the matter back to the Secretary with directions to reconsider the decision.
- (5) The Gambling Commission must give notice of its decision, with reasons, to both the appellant and the Secretary.

*Suspension, cancellation, and surrender of casino licence***144 Suspension or cancellation of casino licence**

The Secretary may apply to the Gambling Commission for an order that a casino licence be suspended or cancelled if the Secretary is satisfied that—

- (a) the licence holder is breaching or has breached this Act or a condition of the licence or minimum operating standards; or
- (b) the licence holder or an associated person is no longer suitable to hold the licence or to be an associated person having regard to the suitability requirements in section 124; or
- (c) the licence holder or an associated person is failing or has failed, without good cause, to supply information requested by the Secretary or a gambling inspector or knowingly has provided false information; or
- (d) the licence holder—
  - (i) has failed to discharge its financial commitments; or
  - (ii) has entered into a compromise with its creditors; or
  - (iii) is being or has been wound up (voluntarily or by court order); or
  - (iv) is liquidated; or
  - (v) is subject to the appointment of a receiver or receiver and manager; or
  - (vi) is being or has been made subject to statutory management under Part III of the Corporations (Investigation and Management) Act 1989.

Compare: 1990 No 62 s 90

**145 Procedure for suspending or cancelling casino licence**

- (1) The Gambling Commission must decide whether or not to grant an order sought by the Secretary under section 144 after following the procedure outlined in this section.
- (2) The Gambling Commission must—
  - (a) send a copy of an application under section 144 to the holder of the casino licence affected; and
  - (b) notify the licensee and the parties to a casino venue agreement with the licensee of their right to make submissions under subsection (3); and

- (c) notify the persons in paragraph (b) of their right to a hearing.
- (3) The persons referred to in subsection (2)(b) may—
  - (a) make written submissions to the Gambling Commission concerning the application for suspension or cancellation within 20 working days after the date of the notice under subsection (2), or within any longer period that the Gambling Commission allows if an application for an extension is made within the time period specified in this paragraph; and
  - (b) request a hearing about the application for suspension or cancellation.
- (4) If a hearing is requested, the Gambling Commission must—
  - (a) fix the earliest practicable date for the hearing; and
  - (b) give at least 20 working days' notice of the date, time, and place of the hearing to the persons referred to in subsection (2)(b).
- (5) The Secretary and the persons referred to in subsection (2)(b) are entitled to produce evidence and to appear and be heard at the hearing, personally or by counsel or agent, and to call, examine, and cross-examine witnesses.
- (6) The Gambling Commission may adjourn a hearing to allow the licence holder an opportunity to deal with any matters that the Gambling Commission requires the licence holder to deal with.

Compare: 1990 No 62 s 91

#### **146 Notification of suspension and cancellation**

- (1) The Gambling Commission may grant an order sought under section 144 if it is satisfied that—
  - (a) 1 or more of the grounds in section 144 are met; and
  - (b) it considers it desirable to do so.
- (2) If the Gambling Commission decides to suspend a casino licence, the Gambling Commission must notify the licence holder of—
  - (a) the duration of the suspension (up to 6 months); and
  - (b) the reasons for the suspension; and
  - (c) the matters to be dealt with in order for the Gambling Commission to consider withdrawing the suspension before the end of the suspension period; and

- (d) the consequences of not dealing with the matters identified; and
  - (e) the right to appeal the decision under section 148.
- (3) If the Gambling Commission decides to cancel a casino licence, the Gambling Commission must notify the licence holder of the date on which the cancellation takes effect, the reasons for the cancellation, and the right to appeal the decision under section 148.
- (4) The Gambling Commission may revoke a suspension if it is satisfied that the reasons for the suspension have been resolved.
- (5) A suspended casino licence must be cancelled if, at the end of the suspension period, the reasons for the suspension are not resolved to the satisfaction of the Gambling Commission.
- (6) A person is not entitled to a refund of fees, taxes, or levies paid if the Gambling Commission suspends or cancels a casino licence.

Compare: 1990 No 62 s 91

#### **147 Surrender of casino licence**

- (1) The holder of a casino licence—
- (a) must surrender the licence to the Secretary, if it is cancelled; and
  - (b) may surrender the licence to the Secretary at any time.
- (2) A surrender is effected by delivering to the Secretary—
- (a) notice to that effect; and
  - (b) the licence.

Compare: 1990 No 62 s 94

#### **148 Appeal against cancellation or suspension**

- (1) The holder of a casino licence may appeal to the High Court against a decision of the Gambling Commission to cancel or suspend the casino licence.
- (2) An appeal must be made within 10 working days after the date on which the suspension or cancellation takes effect.
- (3) The High Court has the power to reconsider the suspension or cancellation and may confirm, vary, or reverse the decision of the Gambling Commission or refer the decision back to the Gambling Commission with directions to reconsider the decision.

- (4) A party to an appeal under subsection (1) who is dissatisfied with a decision of the High Court on a point of law may appeal to the Court of Appeal.
- (5) The casino licence remains in force (unless it expires or is surrendered) until all appeals are decided, or the period for appeal expires.

Compare: 1990 No 62 s 95

### *Associated persons*

#### **149 Approval for associated persons required**

- (1) No person may have or continue to have a significant influence in a casino unless that person is approved as an associated person for that casino—
  - (a) by the Secretary, in the circumstances described in this section; or
  - (b) by the Gambling Commission, on appeal from a decision of the Secretary, on application for a casino operator's licence, on application for renewal of a casino venue licence, and on application for approval of a proposed transferee or alienee of a licence.
- (2) In the circumstances described in subsection (3), the Secretary—
  - (a) must undertake any investigations the Secretary considers necessary and decide whether a person has or is likely to have a significant influence in a casino; and
  - (b) if the Secretary decides the person has or is likely to have a significant influence in a casino, must then decide to either approve or refuse to approve the person as an associated person.
- (3) The circumstances are as follows:
  - (a) receipt by the Secretary of information under section 151; or
  - (b) receipt by the Secretary of an application for approval under section 152; or
  - (c) receipt by the Secretary of advice by a casino licence holder under section 153; or
  - (d) if the Secretary receives or obtains information about the degree of influence a person has in the management, ownership, or operation of a casino and forms the belief that a particular person may have a significant influence in a casino.

- (4) The Secretary must not approve a person as an associated person unless the Secretary is satisfied that the person meets the suitability requirements specified in section 124.
- (5) In assessing suitability, the Secretary has the powers, and other persons have the obligations, in section 125 as if references to the Gambling Commission were references to the Secretary.
- (6) The Secretary must notify the person investigated, and each casino licence holder to whom the decision directly relates, of the Secretary's decisions under subsection (2).
- (7) If the Secretary refuses to approve a person as an associated person under this section, the person must not acquire or continue to hold the position or interest that confers the significant influence in the casino.
- (8) A person who is approved under section 48 of the Casino Control Act 1990 as of the date this section comes into force is to be regarded as a person approved by the Secretary under subsection (1) as an associated person.

### **150 Appeal to Gambling Commission**

- (1) A person who has been refused status as an associated person in any of the circumstances described in section 149, or whose status as an associated person has been revoked under section 155, may appeal to the Gambling Commission against that refusal or revocation.
- (2) An appeal must be made within—
  - (a) 15 working days after the date of the notice of the Secretary's decision; or
  - (b) any longer period that the Gambling Commission allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Gambling Commission—
  - (a) may request any information from the appellant or the Secretary; and
  - (b) is not bound to follow a formal procedure; and
  - (c) does not need to hold a hearing; and
  - (d) must consider any information provided by the appellant or the Secretary.
- (4) The Gambling Commission may then—



- (a) confirm, vary, or reverse the decision of the Secretary;  
or
  - (b) refer the matter back to the Secretary with directions to reconsider the decision.
- (5) The Gambling Commission must give notice of its decision, with reasons, to both the appellant and the Secretary.

**151 Responsibilities of person who acquires significant influence without approval**

A person who acquires a significant influence in a casino and who is not approved as an associated person must inform the following persons of that significant influence:

- (a) the Secretary or the Gambling Commission (as the case may be); and
- (b) each holder of, or applicant for, a casino licence for the casino in which that person has acquired a significant influence.

**152 Licensee to seek prior approval**

- (1) If possible, a casino licence holder must apply to the Secretary for approval of a person as an associated person before that person acquires a significant influence in a casino.
- (2) An application must be in the relevant form.

**153 Responsibility of licensee aware of person with significant influence**

A casino licence holder must advise the Secretary that a person has acquired a significant influence in a casino to which the holder's licence relates as soon as the licence holder becomes aware of that fact.

**154 Affected transactions**

- (1) This section applies if a person acquires a significant influence in a casino without prior approval as an associated person.
- (2) An **affected transaction** means any transaction by which a person acquired a significant influence in a casino without prior approval as an associated person, and includes all aspects of the means by which that influence was acquired.
- (3) If the Secretary refuses to approve an associated person, the Secretary must then—

- (a) advise the Gambling Commission that an affected transaction has occurred; and
- (b) provide the Gambling Commission with a summary of the information held by the Secretary about the affected transaction.

**155 Review of associated persons by Secretary**

- (1) The Secretary may review the approval of a person as an associated person, and the provisions of section 149 apply to a review as if it were an original investigation.
- (2) The Secretary may revoke the approval of a person as an associated person if, after a review, the Secretary considers that the person does not satisfy the suitability requirements specified in section 124.
- (3) The Secretary must notify the relevant person, and each casino licence holder with whom that person is associated, of a revocation under subsection (1).

**156 Actions that may be taken by Gambling Commission**

- (1) This section applies if—
  - (a) a person is refused status as an associated person by the Secretary in any of the circumstances described in section 149 or has that status revoked under section 155; and
  - (b) the time for appeal under section 150 against the refusal or revocation has expired; and
  - (c) any appeal lodged under section 150 has been decided.
- (2) The Gambling Commission may require a person who is refused status as an associated person or whose status as an associated person is revoked, and the relevant casino licence holder, to organise themselves to remove or circumvent the significant influence in the casino of the person.

*Certificates of approval***157 Existing certificates of approval**

A person who holds a certificate of approval issued under section 57 of the Casino Control Act 1990 must be treated as if the person were a person who holds a certificate of approval issued under section 163.

**158 Certain casino employees must be approved**

- (1) A person employed in a casino to do an activity described in subsection (2) must hold a certificate of approval issued under section 163.
- (2) The activities are—
  - (a) conducting approved games (for example, as a dealer):
  - (b) counting money or chips derived from or used in gambling:
  - (c) moving money or chips derived from or used in gambling:
  - (d) buying or redeeming chips:
  - (e) operating, maintaining, constructing, or repairing gambling equipment:
  - (f) supervising or managing any of the activities described in paragraphs (a) to (e).
- (3) Regulations may be made under section 371 that prescribe other classes of casino employees who require a certificate of approval.
- (4) A person engaged by a casino licence holder under a contract for services may be required to apply for a certificate of approval if the Secretary determines that the services relate to an activity described in subsection (2) or to an activity usually performed by a class of employees prescribed under subsection (3).

Compare: 1990 No 62 s 52

**159 Application for certificate of approval**

An application for a certificate of approval must be made to the Secretary on the relevant standard form.

Compare: 1990 No 62 s 53

**160 Secretary must investigate application for certificate of approval**

- (1) On receiving an application for a certificate of approval, the Secretary must investigate and inquire as the Secretary considers necessary to enable the Secretary to consider the application properly.
- (2) Without limiting subsection (1), the Secretary—
  - (a) may require the applicant to consent to having his or her photograph and fingerprints taken; and

- (b) may require the applicant to provide further information to support the application; and
  - (c) must refer a copy of the application, and any photographs, fingerprints, or other information obtained by the Secretary in the investigation, to the police and any Government agency (not including the Inland Revenue Department) that the Secretary considers relevant.
- (3) The police and any agency to whom the application is referred must inquire into and report to the Secretary on the applicant.
  - (4) The Secretary may refuse to grant an application if the applicant fails to provide information requested by the Secretary or refuses to have fingerprints or a photograph taken.
  - (5) Fingerprints provided by the Secretary to the police or a Government agency must be returned to the Secretary for destruction under subsection (6).
  - (6) Fingerprints required by the Secretary must be destroyed by the Secretary immediately after the Secretary has made a decision as to whether or not to grant a certificate of approval.

Compare: 1990 No 62 s 54

#### **161 Information and matters that Secretary may take into account**

- (1) In considering an application for a certificate of approval, the Secretary may take into account the following matters:
  - (a) the honesty of the applicant, including—
    - (i) whether the applicant has convictions for relevant offences; and
    - (ii) whether the applicant has been disciplined by a professional body for ethical misconduct; and
    - (iii) whether the applicant has been disciplined in any way during previous involvement with a casino; and
    - (iv) any other matters raised in a police or other report provided under section 160; and
  - (b) the financial position of the applicant, including—
    - (i) whether the applicant has been adjudged bankrupt; and
    - (ii) whether the applicant was directly involved in the management of a company that went into receivership or liquidation during the period of the applicant's involvement; and

- (iii) the credit history of the applicant.
- (2) The Secretary may take into account matters of a similar nature to those listed in subsection (1) that occurred outside New Zealand.
- (3) The Secretary must not grant an application unless he or she is satisfied that the applicant is a suitable person to work in a casino.

Compare: 1990 No 62 s 55

### **162 Refusal of application for certificate of approval**

- (1) This section applies if the Secretary proposes to refuse to grant an application for a certificate of approval.
- (2) The Secretary must notify the applicant of the proposed refusal, and of the Secretary's reasons for it.
- (3) The notice must invite the applicant to make submissions to the Secretary on the matter, either in person or in writing, within 15 working days after the date on which the notice is given to the applicant, or within any further period that the Secretary allows if an application for an extension is made within the time period specified in this subsection.
- (4) If the applicant makes a submission to the Secretary within the time specified in subsection (3), the Secretary must consider the submission before finally determining whether or not to grant the application.
- (5) If the Secretary decides to refuse the application, the Secretary must notify the applicant of that decision, and the reasons for it, and of the applicant's right to appeal against the decision under section 171.

Compare: 1990 No 62 s 56

### **163 Issue of certificate of approval**

If the Secretary grants an application for a certificate of approval, the Secretary must issue to the applicant a certificate of approval in the form, and containing the information, specified in regulations made under section 369.

Compare: 1990 No 62 s 57

**164 Expiry of certificate of approval**

A certificate of approval expires—

- (a) if the certificate of approval is cancelled by the Secretary under section 167; or
- (b) if the holder of the certificate of approval surrenders it under section 169(1)(b); or
- (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 to do any of the activities listed in section 158(2) or any of the activities specified in regulations made under section 158(3); or
- (d) if the holder of the certificate of approval dies.

Compare: 1990 No 62 s 58

**165 Commencement of duties before issue of certificate of approval**

- (1) The Secretary may permit an applicant for a certificate of approval to commence employment in the casino or to undertake services for the casino licence holder before the application is determined subject to any terms, conditions, and restrictions that the Secretary considers appropriate.
- (2) Subsection (1) applies if the Secretary considers that—
  - (a) a decision on the application may not be made for some time; and
  - (b) the operation of the casino will be seriously prejudiced or disadvantaged by the delay in the employment or engagement of the applicant; and
  - (c) the commencement of the employment or engagement of the applicant will not prejudice the integrity of the operation of the casino.

Compare: 1990 No 62 s 60

**166 Application for suspension or cancellation of certificate of approval**

- (1) A member of the police or a gambling inspector may apply to the Secretary for an order—
  - (a) suspending a certificate of approval; or
  - (b) cancelling a certificate of approval.
- (2) An application for an order must—
  - (a) be made in the relevant form and manner; and
  - (b) contain the relevant information.

- (3) The applicant must send or give a copy of the application to the holder of the certificate of approval and to the holder of the relevant casino operator's licence if the holder of the certificate of approval is employed in a casino or engaged by a casino licence holder.
- (4) The holder of the relevant casino operator's licence must provide to the Secretary, on request, the latest contact details of the holder of the certificate of approval if the holder of the certificate of approval is employed in a casino or engaged by a casino licence holder.
- (5) If the Secretary is satisfied that there are grounds to consider suspending or cancelling a certificate of approval, the Secretary must—
  - (a) obtain from the holder of the relevant casino operator's licence (if any) the contact details of the certificate of approval holder; and
  - (b) write to the holder of the certificate of approval, enclosing a copy of the application, advising the person that—
    - (i) he or she may make a written submission to the Secretary on the application; and
    - (ii) he or she may request, and appear at, a hearing (whether personally or by counsel) and may call, examine, and cross-examine witnesses.
- (6) If the applicant requests a hearing or the Secretary decides to hold a hearing, the Secretary must—
  - (a) fix the earliest practicable date for the hearing; and
  - (b) notify the holder of the certificate of approval and the applicant of the date, time, and place of the hearing, which must be no earlier than 15 working days after the notification.
- (7) In considering an application and conducting any hearing, the Secretary—
  - (a) is not bound to follow any formal procedure; and
  - (b) must consider any submission or information provided to him or her by the applicant and the holder of the certificate of approval.

Compare: 1990 No 62 s 93

**167 Making and revoking order suspending or cancelling certificate of approval**

- (1) The grounds on which the Secretary may make an order suspending or cancelling a certificate of approval are as follows:
  - (a) that the certificate of approval was granted on the basis of information that was materially false or misleading;
  - (b) that the holder has been convicted, since applying for the certificate of approval, of an offence against this Act;
  - (c) that the holder has been convicted, since applying for the certificate of approval, of another offence reflecting on his or her suitability to be employed in a casino or engaged by a casino licence holder;
  - (d) that the holder has contravened section 170;
  - (e) that the conduct of the holder, since the issue of the certificate of approval, shows that he or she is not suitable to be employed in a casino or engaged by a casino licence holder.
- (2) The Secretary may suspend for up to 6 months, or cancel, a certificate of approval if the Secretary is satisfied that—
  - (a) a ground in subsection (1) is established; and
  - (b) it is desirable to make an order.
- (3) The Secretary must specify in the order the date that it takes effect.
- (4) The Secretary must send a copy of the order and the reasons for it to the holder of the certificate of approval and notify the holder of the right of appeal under section 171.
- (5) The Secretary may revoke the suspension of a certificate of approval if the Secretary is satisfied that the matters for which the suspension was imposed have been resolved (where possible) and that it would be just to revoke the suspension.
- (6) A holder of a certificate of approval is not entitled to a refund of fees paid if the Secretary suspends or cancels the person's certificate of approval.

Compare: 1990 No 62 s 93

**168 Secretary must notify casino**

If the holder of a certificate of approval is employed in a casino or engaged by a casino licence holder, the Secretary



must notify the holder of the relevant casino operator's licence—

- (a) if the certificate of approval is suspended or cancelled; and
- (b) if an appeal is lodged; and
- (c) of the outcome of an appeal.

### **169 Surrender of certificate of approval**

- (1) The holder of a certificate of approval—
  - (a) must surrender the certificate of approval to the Secretary if the Secretary cancels or suspends it; or
  - (b) may surrender the certificate of approval to the Secretary by notice accompanied by the certificate of approval.
- (2) A person who fails to comply with subsection (1)(a) commits an offence and is liable on summary conviction to a fine not exceeding \$500.

Compare: 1990 No 62 s 94

### **170 Restriction on holder of certificate of approval**

- (1) The holder of a certificate of approval must not, in relation to a casino in which he or she is employed or with which he or she is associated,—
  - (a) gamble; or
  - (b) solicit or accept tips, gratuities, or other benefits from a player or customer.
- (2) A person who fails to comply with this section is liable on summary conviction to a fine not exceeding \$5,000.

Compare: 1990 No 62 s 65

### **171 Appeal to Gambling Commission regarding certificate of approval**

- (1) A person may appeal to the Gambling Commission against a decision of the Secretary to—
  - (a) refuse to grant a certificate of approval to the person; or
  - (b) suspend or cancel a certificate of approval held by the person.
- (2) An appeal must be in writing and must be made within 15 working days after the date of notice of the Secretary's decision, or any longer time that the Gambling Commission

allows if an application for an extension is made within the 15-day period.

- (3) The Gambling Commission—
  - (a) may request any information from the person or the Secretary; and
  - (b) is not bound to follow any formal procedure; and
  - (c) does not need to hold a hearing; and
  - (d) must consider any information provided by the person or Secretary.
- (4) The Gambling Commission may—
  - (a) confirm, vary, or reverse the decision of the Secretary; or
  - (b) refer the matter back to the Secretary with directions to reconsider the decision.
- (5) The Gambling Commission must give notice of its decision, with reasons, to both the person and the Secretary.
- (6) A certificate of approval remains unchanged until the period for appeal in subsection (2) expires, or pending the outcome of an appeal if the appellant appeals a suspension or cancellation under subsection (1)(b).

Compare: 1990 No 62 s 99

### *Operation of casinos*

#### **172 Restricted hours of operation**

- (1) A holder of a casino licence must not conduct casino gambling on Christmas Day, Good Friday, or on Anzac Day between the hours of 3 am and 1 pm.
- (2) A holder of a casino licence who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- (3) The Governor-General may, by Order in Council, make regulations prescribing the days on, and the hours during, which a licensed casino may conduct casino gambling and the activities that may be undertaken.
- (4) Regulations made under subsection (3) must not override subsection (1) but may impose restrictions that are additional to the restrictions in that subsection.

Compare: 1990 No 62 s 61

**173 Liquor licence**

Despite the Sale of Liquor Act 1989, an on-licence granted under that Act for a licensed casino must be treated as authorising the sale of liquor for consumption in the casino while the casino is lawfully operated.

Compare: 1990 No 62 s 62

**174 Charges to enter and play not permitted**

- (1) The holder of a casino licence must not charge or take a deposit, levy, or charge, directly or indirectly, to or from a person for the right to participate in casino gambling in the casino, except a commission or levy provided for in game rules.
- (2) It makes no difference under subsection (1) that a deposit, levy, or charge is, or is claimed to be, refundable.

Compare: 1990 No 62 s 64

**175 Information for customers**

- (1) The holder of a casino operator's licence must display at each gaming table or location for playing a game (other than a gaming machine) a notice for the game played advising customers of the following matters:
  - (a) that copies of the game rules for the game are available on request:
  - (b) the permissible minimum and maximum bets:
  - (c) how winning bets will be paid.
- (2) If a person in a casino asks for a copy of the game rules for a game, the holder of the casino operator's licence must make a copy available for examination without delay.
- (3) The holder of a casino licence who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

Compare: 1990 No 62 s 69

**176 Training for employees**

- (1) The holder of a casino operator's licence must provide training courses for conducting games for persons employed, or to be employed, in conducting games in the casino.
- (2) The content, format, and duration of courses must be approved by the Secretary.

- (3) The holder of the casino operator's licence must not employ a person to conduct a game unless the employee has completed the approved course of training for the conduct of that game.
- (4) The holder of the casino operator's licence may conduct simulated games for training purposes on terms approved by the Secretary.
- (5) The Secretary may exempt an employee or class of employees from this section.
- (6) The holder of a casino operator's licence who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

Compare: 1990 No 62 s 71

#### **177 Books must be kept in casino venue**

- (1) All books, records, and documents relating to the operation of a casino must be kept by the holder of the casino operator's licence in the casino venue.
- (2) The Secretary may, on application by the holder of a casino operator's licence,—
  - (a) exempt the licence holder from compliance with subsection (1) in respect of specified books, records, or documents; or
  - (b) permit the licence holder to temporarily remove books, records, or documents from the casino venue.
- (3) All books, records, and documents referred to in subsection (1) must be retained by the holder of the licence for 7 years after the completion of the last transaction to which they relate.
- (4) The Secretary may, on application by the holder of the casino operator's licence, approve—
  - (a) the retention of books, records, and documents in an alternative form or manner; or
  - (b) the earlier destruction of any of the books, records, or documents not considered to be essential.
- (5) Subsection (4) and any other enactment or rule of law relating to the retention or destruction of books, records, and documents override subsection (3).

Compare: 1990 No 62 s 72

**178 Gambling equipment must be kept in casino venue**

- (1) Gambling equipment relating to the operation of a casino must be kept by the holder of the casino operator's licence in the casino venue.
- (2) The Secretary may, on application by the holder of a casino operator's licence,—
  - (a) exempt the licence holder from compliance with subsection (1) in respect of specified gambling equipment; and
  - (b) permit the licence holder to temporarily remove specified gambling equipment from the casino venue.
- (3) The Secretary may impose conditions on an exemption or permission under subsection (2) (for example, conditions relating to the security of the equipment or the period of its removal).

**179 Obligation on disposing of gaming machine**

- (1) The holder of a casino operator's licence must provide the following information to the Secretary within 20 working days of disposing of a gaming machine:
  - (a) the method of disposal;
  - (b) the name of the acquirer and the details necessary to contact the acquirer with ease.
- (2) The holder of a casino operator's licence who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

**180 Prohibition on certain gaming machines in casino**

- (1) On and from the date that is 6 months after the commencement of this section, the holder of a casino licence must not operate, or allow to be operated, at the casino a gaming machine that is able to accept banknotes with a denomination greater than \$20.
- (2) The holder of a casino licence who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

**181 Restriction on certain agreements**

- (1) The holder of a casino licence must not, without the written approval of the Secretary, enter into or be a party to a lease,

contract, agreement, or arrangement (whether written or unwritten) with any other person for that person to lease, let, lend, or provide a thing or service in return for—

- (a) a direct or indirect interest in, or percentage or share of, money gambled at the casino; or
  - (b) a direct or indirect interest in, or percentage or share of, the turnover, revenues, profits, benefits, or earnings from or of the casino.
- (2) The Secretary may, upon application, approve in writing a lease, contract, agreement, or arrangement referred to in subsection (1) if the Secretary considers that it is desirable or appropriate to do so in a particular case.

Compare: 1990 No 62 s 73

## **182 Review of agreements**

- (1) The holder of a casino licence must, if directed by the Secretary to do so, provide to the Secretary, within the time stipulated by the Secretary, the information that the Secretary thinks fit with respect to any lease, contract, agreement, or arrangement (in this section and sections 183 and 184 referred to as the **agreement**), written or unwritten, with any other person relating to the casino.
- (2) Without limiting subsection (1), the Secretary may require the following information:
  - (a) the names of persons entering into the agreement:
  - (b) the description of any property, good, or other thing or service provided or to be provided:
  - (c) the value, type, or nature of any consideration:
  - (d) the operative period of the agreement.
- (3) The holder of a casino licence must, if directed by the Secretary to do so, provide to the Secretary, within the time that may be stipulated by him or her, a copy of the agreement if it is in writing.
- (4) If, upon a review of any information or document provided under this section, the Secretary is satisfied that the continuance of the agreement jeopardises the integrity of gambling at the casino, he or she must, without delay, issue to the licensee who is the party to the agreement a notice requiring the licensee to demonstrate why the agreement should not be terminated.

- (5) The notice must—
  - (a) state the grounds for the notice; and
  - (b) stipulate a date that is not earlier than 20 working days after the issue of the notice, on or before which the licensee is required to respond under subsection (4).
- (6) If the Secretary issues a notice, he or she must, at the same time, provide a copy to the other party to the agreement.

Compare: 1990 No 62 s 74(1) to (6)

### **183 Procedure after issue of notice**

- (1) The holder of a casino licence who receives a notice under section 182 may respond to the Secretary under section 182(4) not later than the date stipulated under section 182(5) of that section.
- (2) The other party may make submissions to the Secretary not later than that stipulated date.
- (3) The Secretary must consider the response and any submissions made by the other party and,—
  - (a) if, in the Secretary's opinion, satisfactory answers are given or submissions made, the Secretary must take no further action in relation to the matter; or
  - (b) if, in the Secretary's opinion, answers given or submissions made are not satisfactory or if no answers are given and no submissions made, the Secretary may direct the termination of the agreement.
- (4) The Secretary's direction referred to in subsection (3)(b), and the reasons for it, must be given in writing to the parties to the agreement and must specify a date on which the agreement is terminated under this Act.
- (5) The agreement in question, if not sooner terminated by the parties to the agreement, is terminated by force of this Act on the date specified in the direction.

Compare: 1990 No 62 s 74(7) to (11)

### **184 Consequences of termination of agreement**

- (1) The termination of the agreement does not affect the rights and obligations of the parties up to the time of termination.

- (2) No liability for breach of the agreement attaches to a party or the Secretary by reason only of its termination by force of this Act.

Compare: 1990 No 62 s 74(12) to (13)

### **185 Bank may be required to provide information**

- (1) The manager or other principal officer of a bank in which the holder of a casino licence keeps and maintains an account for the casino must, if required in writing by the Secretary, provide to the Secretary a statement of account and any other information required by the Secretary, including copies of cheques or records relevant to the account.
- (2) No liability is incurred by the bank, the manager, or other principal officer for breach of trust or otherwise by reason only of providing information under this section.

Compare: 1990 No 62 s 75

### **186 Investigation of complaints**

- (1) A gambling inspector must investigate, as soon as practicable, a complaint from a customer about the conduct of casino gambling.
- (2) The gambling inspector must inform the holder of the relevant casino operator's licence of the substance of the complaint, and give the licence holder a reasonable opportunity to respond to it.
- (3) If, as a result of the investigation, the inspector is satisfied that any of the events in subsection (4) have occurred, the gambling inspector must provide a written report to the Secretary.
- (4) The events are as follows:
- (a) the conduct of a game in that casino has contravened—
    - (i) a condition of the casino operator's licence:
    - (ii) the game rules:
  - (b) there has been any contravention of, or non-compliance with, this Act.
- (5) The gambling inspector must provide a copy of his or her report to the holder of the casino operator's licence and, if a casino venue agreement exists, to the other party to that agreement.



- (6) A complainant must be informed of the result of the investigation of his or her complaint and any consequent action taken.  
Compare: 1990 No 62 s 84

### **187 Temporary authority**

- (1) If the Gambling Commission cancels or suspends a casino operator's licence, the Gambling Commission may, on application, authorise the applicant (other than the holder of that casino operator's licence), or another suitable person nominated by the applicant, to carry on the operation of the casino.
- (2) An authority given by the Gambling Commission must be for a period not exceeding 3 months.
- (3) The Gambling Commission may—
- (a) hear and determine an application *ex parte*; or
  - (b) direct that notice of the application and of the time and place fixed for any hearing be served on persons and in the manner specified by the Gambling Commission.
- (4) On granting an application, the Gambling Commission may impose reasonable conditions that the Gambling Commission thinks fit.
- (5) The holder of a temporary authority has the same duties, obligations, and liabilities as the holder of the licence to which the temporary authority relates.

Compare: 1990 No 62 s 92

## Subpart 6—Licensed promoters of class 3 gambling

### **188 Society may engage licensed promoter**

- (1) A society may engage a licensed promoter, for reward, to promote licensed class 3 gambling, which is not conducted regularly, on its behalf.
- (2) Reward paid to a licensed promoter under subsection (1) may be by way of remuneration, commission, or otherwise, but must not exceed the lesser of—
- (a) the amount applied to authorised purposes from the promotion; or
  - (b) the amount prescribed by regulations made under section 219.
- (3) A society must not engage a licensed promoter unless their relationship is covered by an agreement that satisfies any regulation made under section 219.

- (4) In this section, **conducted regularly** has the same meaning as in section 28(4).

Compare: 1977 No 84 s 37

**189 Licensed promoter may only promote licensed class 3 gambling activity**

- (1) A licensed promoter must not promote a class 3 gambling activity on behalf of a society unless the promoter believes on reasonable grounds that the society has obtained a class 3 operator's licence to conduct the gambling activity under section 37.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (3) In addition to any penalty that may be imposed under subsection (2), a court may order that the licensed promoter forfeit to the Crown all reward paid to the licensed promoter by the society for promoting the class 3 gambling activity.

Compare: 1977 No 84 s 38

**190 Existing licensed promoter licences**

Despite section 375, an existing licensed promoter's licence held on the commencement of this section continues on its current terms as if it were a licence granted under section 201.

*Applications for licensed promoter's licence*

**191 Eligibility for licensed promoter's licence**

- (1) Subject to subsection (2), the following persons may apply for, and obtain, a licensed promoter's licence:
- (a) a natural person who is over the age of 18 years;
  - (b) a company.
- (2) A person may not apply for, or obtain, a licensed promoter's licence if,—
- (a) in the case of a natural person,—
    - (i) the person is an undischarged bankrupt; or
    - (ii) the person is a bankrupt whose order of discharge is suspended for a term that has not yet expired or is subject to conditions not yet fulfilled; or
  - (b) the person has previously held a licensed promoter's licence that was cancelled, or for which a renewal was

refused, at any time within the period of 5 years immediately before the date of application.

- (3) A person must not apply for, or obtain, a licensed promoter's licence knowing that the person is not eligible to do so.
- (4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

Compare: 1977 No 84 s 39(1), (2), (4)

### **192 Application for licensed promoter's licence**

- (1) An application for a licensed promoter's licence must be made to the Secretary on the relevant standard form and be accompanied by a bond that satisfies section 195.
- (2) The Secretary may return an incomplete application, and the accompanying bond and any fee, to an applicant.

Compare: 1977 No 84 s 40

### **193 Notice of licence application**

An applicant for a licensed promoter's licence must, after lodging the application with the Secretary,—

- (a) send a copy of the application to a senior member of the police,—
  - (i) in the case of an applicant who is a natural person, in the district in which the applicant resides:
  - (ii) in the case of an applicant that is a company, in the district in which the company's registered office is situated:
- (b) publish a notice of the application twice, at intervals of not more than 14 days, in a newspaper or newspapers approved for the purpose by the Secretary.

Compare: 1977 No 84 s 43

### **194 Objections**

- (1) The police or any other person may object to an application for a licensed promoter's licence.
- (2) The police must lodge an objection to an application within 1 month after a copy of the application has been received by the police.

- (3) A person, other than the police, must lodge an objection to an application within 1 month after notice of the application is first published.
- (4) Objections must—
  - (a) be lodged with the Secretary; and
  - (b) relate to the suitability of the applicant, or a key person of the applicant, in terms of the matters specified in section 201(2) and (3); and
  - (c) state the grounds of objection.
- (5) The Secretary must send a copy of the objection to the applicant within 7 days after the objection is lodged with the Secretary.

Compare: 1977 No 84 ss 44, 45

### *Bond*

#### **195 Applicant must provide bond given by approved surety**

- (1) An application for a licensed promoter's licence must be accompanied by a bond given by a person who is nominated to the Secretary as a surety.
- (2) The bond must—
  - (a) be for the amount of—
    - (i) \$50,000, until the date that is 3 years after the date on which this Act receives the Royal assent;
    - (ii) \$200,000, on and from the date that is 3 years after the date on which this Act receives the Royal assent; and
  - (b) bind the surety, unconditionally, to pay the bond to the Secretary on demand if the licensed promoter does 1 or more of the things specified in section 196(1).
- (3) As soon as practicable after receiving the application, the Secretary must approve the person nominated as the surety, or refuse to approve the person.
- (4) In considering whether or not to approve a person as an approved surety, the Secretary must have regard to the person's ability to pay the bond on demand.
- (5) To avoid doubt, in the case of a licensed promoter's licence that was granted before the date specified in subsection (2)(a)(ii) and that is renewed after that date, the bond given by

the approved surety must be increased to \$200,000 at the time an application for a renewal of the licence is made.

Compare: 1977 No 84 s 41(1), (3)

### **196 When bond must be paid to Secretary**

- (1) The Secretary may demand immediate payment of the bond, and the approved surety must satisfy that demand, if the licensed promoter does 1 or more of the following:
  - (a) fails to meet a financial commitment to the society that engaged the licensed promoter;
  - (b) fails to pay prizes to winners of class 3 gambling promoted by the licensed promoter;
  - (c) breaches the obligations of a licensed promoter under this Act or the licensed promoter's licence.
- (2) A copy of the demand must be sent to the licensed promoter.
- (3) The Secretary must pay the bond received under subsection (1) into a bank account established to administer bonds.

### **197 Secretary may appoint administrator**

The Secretary may appoint an administrator—

- (a) to administer bonds paid by approved sureties to the Secretary; and
- (b) to consider, negotiate, and pay compensation claims against a licensed promoter lodged under section 198.

### **198 Compensation claims**

- (1) The administrator may apply the bond received from an approved surety to compensate a society or participants in the class 3 gambling activity who have suffered loss or damage in the circumstances set out in section 196(1) as a result of the acts or omissions of the licensed promoter.
- (2) If subsection (1) applies, the administrator must publish a notice twice, at intervals of not more than 14 days in a newspaper or newspapers that the administrator considers sufficient, inviting people to lodge claims with the administrator.
- (3) A person who wishes to lodge a claim must do so within 6 months of the first date on which the notice is published.

Compare: 1977 No 84 s 41(4), (6)

**199 Consideration and payment of claims**

- (1) The administrator must—
  - (a) investigate whether a claim made under section 198(3) is justified; and
  - (b) negotiate the amount of a claim with the claimant; and
  - (c) negotiate any claims for interest and, if interest is payable, the rate of interest.
- (2) The administrator's decision on whether or not to accept a claim, and the amount of the claim, is final.
- (3) The administrator must apply the bond as follows:
  - (a) first, to pay the administrator's fees and expenses incurred in administering the bond;
  - (b) second, to pay compensation to persons whose claims have been accepted by the administrator under subsection (2);
  - (c) third, to pay to the approved surety any surplus after the amounts specified in paragraphs (a) and (b) have been satisfied.
- (4) If the total claims accepted by an administrator exceed the bond amount paid by an approved surety, the administrator must (after deducting the administrator's fees and expenses) pay each person whose claim has been accepted the proportion of the bond amount that the person's claim bears to the total claims accepted.
- (5) The administrator must not pay a claim until 6 months after the second notice required under section 198 is given.

Compare: 1977 No 84 s 41(7)–(9)

*Grant of licensed promoter's licence***200 Secretary must investigate applicant for licensed promoter's licence**

- (1) The Secretary must undertake any investigations the Secretary considers necessary to determine whether an application for a licensed promoter's licence may be granted.
- (2) In undertaking investigations, the Secretary may—
  - (a) require the applicant to provide further information relating to the application;
  - (b) require the police to provide any relevant information that the police may hold about the applicant or any key person:

- (c) refer to the police a copy of the application and any supporting information provided by the applicant.
- (3) Subsection (2) does not limit subsection (1).
- (4) A person required to provide information under subsection (2) must provide the information as promptly as is reasonable in the circumstances.

### **201 Grounds for granting licensed promoter's licence**

- (1) The Secretary must refuse to grant a licensed promoter's licence unless the Secretary is satisfied that the applicant is suitable.
- (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:
  - (a) whether the applicant or a key person has, within the last 10 years,—
    - (i) been convicted of a relevant offence:
    - (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:
    - (iv) the profile of past compliance by the applicant and each key person with—
      - (A) this Act, minimum standards, game rules, *Gazette* notices, and licence conditions; and
      - (B) the Racing Act 2003 or the Racing Act 1971 (and any rules of racing made under either of those Acts); and
      - (C) previous gaming Acts, and regulations made under previous gaming Acts; and
      - (D) a licence or a site approval issued under a previous gaming Act; and
  - (b) the financial position of the applicant and the credit history of the applicant and each key person.
- (3) The Secretary may take into account matters of a similar nature to those listed in subsection (2) that occurred outside New Zealand.

- (4) The Secretary must refuse to grant an application for a licensed promoter's licence if—
  - (a) the Secretary refuses to approve a person nominated as a surety under section 195(3); or
  - (b) the applicant refuses to provide the information required by the Secretary under section 200(2)(a).
- (5) If the Secretary decides to refuse to grant a licensed promoter's licence, the Secretary must notify the applicant of—
  - (a) the reason for the decision; and
  - (b) the right to appeal the decision; and
  - (c) the process to be followed for an appeal under section 209.

### **202 Secretary must notify police if licence granted**

- (1) The Secretary must, after granting a licence, notify the police of—
  - (a) the full name and address of the licensed promoter and any key person; and
  - (b) the number of the licence; and
  - (c) the date on which the licence was granted; and
  - (d) the registered office of the licensed promoter, and any other place of business specified in the licence.
- (2) The Secretary must also notify the police if the Secretary takes any other action in respect of the licence.
- (3) Notice required under this section must be given to a senior member of the police,—
  - (a) in the case of a holder of a licence who is a natural person, in the district in which the person resides;
  - (b) in the case of a holder of a licence that is a company, in the district where the company's registered office is situated.

Compare: 1977 No 84 s 51

### **203 Content and conditions of licensed promoter's licence**

- (1) A licensed promoter's licence must include the following information:
  - (a) the name and business address of the licensed promoter and any key person; and
  - (b) the commencement date and expiry date of the licence; and
  - (c) the name and business address of the approved surety.



- (2) A licensed promoter's licence is subject to the following conditions:
- (a) the licence will be suspended until another bond is provided to the Secretary if—
    - (i) the bond provided by the approved surety under section 195 is withdrawn; or
    - (ii) the approved surety is required to pay the bond to the Secretary under section 196:
  - (b) the licensed promoter must not be associated directly or indirectly with providing ancillary services or prizes in a promotion, unless those services or prizes are provided free of charge:
  - (c) the licensed promoter must not, during the period of the licence, be employed by a society to conduct class 3 gambling, except in the capacity as a licensed promoter:
  - (d) any other conditions added by the Secretary.
- (3) The conditions that the Secretary may add to a licensed promoter's licence include—
- (a) conditions relating to the investigation and audit of the licensed promoter by the Secretary:
  - (b) any other conditions consistent with this Act that the Secretary considers will promote or ensure compliance with this Act.
- (4) The Secretary may, after consultation with the licensed promoter,—
- (a) amend or revoke a condition of a licensed promoter's licence; or
  - (b) add new conditions to a licensed promoter's licence.
- (5) If the Secretary decides to amend or revoke a condition or add a new condition to a licence, the Secretary must notify the society of—
- (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 209.
- (6) A licensed promoter who contravenes subsection (2)(c) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

Compare: 1977 No 84 s 58

**204 Secretary must keep register of licensed promoters**

- (1) The Secretary must keep and maintain a register that records the name and contact details of licensed promoters.
- (2) The register may be kept and maintained in written or electronic form, or both.
- (3) The register must be made available for inspection to members of the police and the public.

*Renewal of licensed promoter's licence***205 Renewal of licensed promoter's licence**

- (1) A licensed promoter may apply to the Secretary for a renewal of his, her, or its licensed promoter's licence before the expiry of the licence.
- (2) An application must be made on the relevant standard form and be accompanied by—
  - (a) a bond that satisfies section 195; or
  - (b) if the Secretary thinks fit, a statement by the existing approved surety that the surety is willing to continue to act as a surety for the licensed promoter and the prescribed bond amount.
- (3) Sections 200 and 201 apply to an application for renewal as if it were an application for a licensed promoter's licence.
- (4) The Secretary must not renew a licence unless the bond or statement required under subsection (2)(a) or (b) has been lodged or given, as the case may be.
- (5) A licensed promoter's licence continues in force after its expiry date if—
  - (a) the licensed promoter has applied for renewal of the licence before the expiry date; and
  - (b) the application has not been refused.

*Suspension, cancellation, or refusal to renew licensed promoter's licence***206 Suspension or cancellation of licensed promoter's licence**

- (1) The Secretary may suspend for up to 6 months, or cancel, a licensed promoter's licence if the Secretary is satisfied that—
  - (a) the licensed promoter is no longer suitable to hold the licence, in terms of section 201(2) or (3);
  - (b) the licensed promoter is failing, or has failed, to comply with—

- (i) this Act; or
  - (ii) the licence; or
  - (iii) the licensed promoter's agreement.
- (2) In deciding whether to suspend or cancel a licensed promoter's licence, the Secretary must take into account the matters in section 201.

Compare: 1977 No 84 s 64

**207 Procedure for suspending, cancelling, or refusing to renew licensed promoter's licence**

- (1) If the Secretary proposes to suspend, cancel, or refuse to renew a licensed promoter's licence, the Secretary must notify the licensed promoter of—
  - (a) the proposal to suspend, cancel, or refuse to renew the licence; and
  - (b) the reason for the proposed suspension, cancellation, or refusal; and
  - (c) the licensed promoter's rights, and the procedure to be followed,—
    - (i) before the suspension or cancellation takes effect; or
    - (ii) as a result of the refusal to renew the licence.
- (2) A licensed promoter may make written submissions to the Secretary concerning the proposed suspension, cancellation, or refusal to renew within—
  - (a) 20 working days after the date of the notice under subsection (1); or
  - (b) any longer period that the Secretary allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Secretary must consider any submissions made by the licensed promoter.
- (4) If the Secretary decides to suspend a licensed promoter's licence, the Secretary must notify the licensed promoter of—
  - (a) the date that the suspension takes effect, being the date of the notice or a specified date after the date of the notice; and
  - (b) the suspension period (up to 6 months); and
  - (c) the reason for the suspension; and

- (d) the matters to be dealt with in order for the Secretary to consider withdrawing the suspension before the end of the suspension period; and
  - (e) the consequences of not dealing with the matters identified.
- (5) If the Secretary decides to cancel or refuse to renew a licensed promoter's licence, the Secretary must notify the licensed promoter of,—
- (a) for a cancellation, the date on which it takes effect and the reason for the cancellation;
  - (b) for a refusal to renew, the reason for the refusal.
- (6) If subsection (4) or subsection (5) applies, the Secretary must also notify the licensed promoter of—
- (a) the right to appeal the decision; and
  - (b) the process to be followed for an appeal under section 209.

**208 Consequences of suspension, cancellation, or refusal to renew licensed promoter's licence**

- (1) The suspension or cancellation of, or refusal to renew, a licensed promoter's licence does not affect—
- (a) the obligations of an approved surety to pay the bond amount on demand under section 196;
  - (b) the obligations of the licensed promoter to operate a trust account as required by section 211.
- (2) The Secretary may decide to withdraw a suspension before the end of the suspension period if the reasons for the suspension are resolved to the satisfaction of the Secretary.
- (3) The Secretary may decide to cancel a suspended licence at the end of the suspension period if the reasons for the suspension are not resolved to the satisfaction of the Secretary.
- (4) Section 207(5) and (6) apply to the cancellation of a suspended licence.
- (5) A licensed promoter is not entitled to a refund of fees paid in relation to its licensed promoter's licence if the Secretary suspends, cancels, or refuses to amend or renew its licensed promoter's licence.

**209 Appeal to Gambling Commission regarding licensed promoter's licence**

- (1) An applicant for a licensed promoter's licence or a licensed promoter may appeal to the Gambling Commission against a decision of the Secretary to—
  - (a) refuse to grant a licensed promoter's licence to the applicant; or
  - (b) amend or revoke a condition of the licence, or add a new condition to it; or
  - (c) refuse an application by the licensed promoter for the renewal of the licensed promoter's licence held by the licensed promoter; or
  - (d) suspend or cancel a licence.
- (2) An appeal must be in writing and must be made within—
  - (a) 15 working days after the date of the notice of the Secretary's decision; or
  - (b) any longer period that the Gambling Commission allows if an application for an extension is made within the time period specified in paragraph (a).
- (3) The Gambling Commission—
  - (a) may request any information from the applicant, licensed promoter, or Secretary; and
  - (b) is not bound to follow any formal procedure; and
  - (c) does not need to hold a hearing; and
  - (d) must consider any information provided by the applicant, licensed promoter, or Secretary.
- (4) The Gambling Commission may then—
  - (a) confirm, vary, or reverse the decision of the Secretary; or
  - (b) refer the matter back to the Secretary with directions to reconsider the decision.
- (5) The Gambling Commission must give notice of its decision, with reasons, to both the applicant or licensed promoter and to the Secretary.

**210 Consequences of appeal regarding licensed promoter's licence**

- (1) The conditions of a licensed promoter's licence remain unchanged pending the outcome of an appeal if the appellant appeals an amendment or revocation of a condition or the addition of a new condition under section 209(1)(b).

- (2) A licensed promoter's licence remains in force until—
- (a) the expiry of the period for an appeal under section 209(2); or
  - (b) the outcome of an appeal if the appellant—
    - (i) appeals a decision to amend or revoke a condition of a licence, or to add a new condition to a licence under section 209(1)(b); or
    - (ii) appeals a refusal to renew the licence under section 209(1)(c); or
    - (iii) appeals a decision to suspend or cancel the licence under section 209(1)(d).

*Trust account*

**211 Licensed promoter must have trust account**

- (1) This section applies to all money raised by, or paid to, a licensed promoter (including interest)—
- (a) to meet the expenses incurred by the licensed promoter on the society's behalf; or
  - (b) to be held by the licensed promoter on the society's behalf.
- (2) A licensed promoter must pay the money into a trust account, at a registered bank, operated either—
- (a) for the activities of the society or the licensed promoter generally; or
  - (b) for a particular promotion.
- (3) No person may withdraw money paid into the trust account except—
- (a) to pay it to the society on whose behalf it was received or, at the direction in writing of the society, to a person other than the licensed promoter; or
  - (b) for the purpose of paying an account rendered in accordance with section 213.
- (4) Money paid into a licensed promoter's trust account must not—
- (a) be used to pay debts of the licensed promoter, or of a key person of the licensed promoter;
  - (b) be attached or taken in execution under an order or process of a court;
  - (c) pass to the Official Assignee if the licensed promoter or a key person of the licensed promoter is adjudged bankrupt.

- (5) A person who knowingly contravenes subsection (3) or subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.
- (6) This section does not prevent money raised by, or paid to, a licensed promoter being paid into the society's bank account if the payment is permitted by the licensed promoter's agreement with the society.

Compare: 1977 No 84 s 55

## **212 Trust account must be audited**

A licensed promoter's trust account must be audited by a chartered accountant (within the meaning of section 19 of the Institute of Chartered Accountants of New Zealand Act 1996) at the times and in the manner prescribed by regulations made under section 219.

Compare: 1977 No 84 s 56

## **213 Licensed promoter must render account to society**

- (1) A licensed promoter must render an account to the society that sets out, in full, particulars of—
  - (a) the money that has been received by the licensed promoter on behalf of the society; and
  - (b) how the money has been applied; and
  - (c) any outstanding amounts that remain to be applied.
- (2) The account must be rendered—
  - (a) within 7 days of a request from the society to do so; or
  - (b) if no request has been made, within 28 days if the licensed promoter has ceased to act for the society.
- (3) A licensed promoter who has rendered an account to a society that satisfies subsection (1) may appropriate money from the trust account to satisfy the account if the appropriation is permitted by the licensed promoter's agreement with the society and by this Act.
- (4) A licensed promoter must pay all money held in the trust account on behalf of the society to the society—
  - (a) within 7 days of a request from the society to do so; or
  - (b) if no request has been made, within 28 days if the licensed promoter has ceased to act for the society.

- (5) A person who knowingly contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

Compare: 1977 No 84 s 57

*Other matters*

**214 Surrender of licensed promoter's licence**

- (1) A licensed promoter may surrender a licensed promoter's licence to the Secretary at any time.
- (2) The surrender of a licence by a licensed promoter does not affect—
- (a) the obligations of the licensed promoter under this Act or the licence:
  - (b) the obligations of an approved surety under this Act.

**215 Temporary licence**

- (1) The Secretary may, on the application of a person specified in subsection (2), authorise the applicant or any other person to carry on the business of a licensed promoter for a period of up to 3 months.
- (2) The persons are—
- (a) the manager of the licensed promoter's estate, if the licensed promoter becomes subject to a property order under the Protection of Personal and Property Rights Act 1988:
  - (b) the licensed promoter's personal representative, if the licensed promoter dies:
  - (c) the official assignee, if the licensed promoter is adjudged bankrupt:
  - (d) a liquidator, receiver, or statutory manager, if the licensed promoter is a company and is put into liquidation, placed in receivership, or declared to be subject to statutory management, as the case may be.
- (3) An applicant must, after lodging the application with the Secretary, send a copy of it to the police.
- (4) If the application is granted, the person who is authorised to carry on the business of the licensed promoter must be treated as if the person were the licensed promoter.



- (5) The Secretary must, after granting a licence under this section, notify the police in accordance with section 202.

Compare: 1977 No 84 s 53(1)–(3)

### **216 Revocation of temporary licence**

- (1) The police may apply to the Secretary for an authorisation under section 215(1) to be revoked if there are grounds to believe that—
- (a) it is not in the public interest for the business to be carried on; or
  - (b) the person who is authorised to carry on the business has been convicted of a relevant offence.
- (2) The Secretary may revoke the authorisation if the Secretary has good reason to believe that 1 or both of the grounds in subsection (1) have been established.
- (3) In determining whether the grounds in subsection (1) have been established, the Secretary may take into account matters that occurred outside New Zealand.
- (4) The revocation does not take effect until the Secretary has notified the person concerned.

Compare: 1977 No 84 s 53(4), (6)

### **217 Incomplete promotions**

- (1) This section applies if a licensed promoter is unable or unwilling to complete the promotion of a class 3 gambling activity.
- (2) If subsection (1) applies, the society on whose behalf the promotion was undertaken may ask the Secretary to—
- (a) authorise the society to wind up the promotion; or
  - (b) authorise the society to proceed on its own behalf with the promotion; or
  - (c) authorise the society to appoint another licensed promoter to take over and complete the promotion.

Compare: 1977 No 84 s 54 (1), (2)

### **218 Licensed promoter's licence not transferable**

- (1) A licensed promoter's licence is not transferable.
- (2) This section is subject to sections 215 and 217.

**219 Regulations relating to licensed promoters**

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

- (a) prescribing the content of a licensed promoter's agreement:
- (b) providing for the manner and timing of the audit of a licensed promoter's trust account:
- (c) prescribing the maximum, expressed in any appropriate way including a specific amount or a percentage, that may be deducted by a licensed promoter for expenses incurred in promoting class 3 gambling:
- (d) prescribing the maximum reward, expressed in any appropriate way including a specific amount or a percentage, that may be paid to a licensed promoter for promoting class 3 gambling:
- (e) providing for the maximum number of class 3 gambling activities that may be conducted or promoted by a licensed promoter during the period of a licence:
- (f) providing for the supervision of class 3 gambling activities promoted by licensed promoters by the police and gambling inspectors:
- (g) providing for any other matters that are contemplated by, or necessary for, giving full effect to this subpart and its due administration.

Compare: 1977 No 84 s 66

## **Part 3 Institutions**

### Subpart 1—Gambling Commission

**220 Establishment of Gambling Commission**

A Gambling Commission is established.

**221 Membership**

- (1) The Governor-General may, on the recommendation of the Minister, appoint up to 5 Gambling Commissioners.
- (2) The Governor-General may, on the recommendation of the Minister, appoint 1 Gambling Commissioner as the Chief Gambling Commissioner.

- (3) A Gambling Commissioner is appointed for a term of up to 3 years as specified in the instrument of appointment.
- (4) A Gambling Commissioner may be reappointed.
- (5) A person appointed as a Gambling Commissioner may hold that office concurrently with other appointments.
- (6) No function or decision of the Gambling Commission is invalidated because—
  - (a) a Gambling Commissioner did not meet the requirements of section 222; or
  - (b) there was a defect in the appointment or reappointment of a Gambling Commissioner; or
  - (c) there is a vacancy in the membership of the Gambling Commission.
- (7) Unless the Gambling Commissioner sooner vacates office under section 223, a Gambling Commissioner continues in office until a successor is appointed, despite the expiry of the Gambling Commissioner's term of office.
- (8) A Gambling Commissioner is not employed in the Government service for the purposes of the Government Superannuation Fund Act 1956 or the State services for the purposes of the State Sector Act 1988 only because the person is a Gambling Commissioner.

## **222 Appointment criteria**

- (1) All Gambling Commissioners must have, in the opinion of the Minister, the knowledge, skills, and experience to enable them to assist in undertaking the functions, powers, and responsibilities of the Gambling Commission.
- (2) Additionally, the Chief Gambling Commissioner must be, or have been, a barrister and solicitor of the High Court of New Zealand with at least 7 years' legal experience as defined in section 55(1) of the Law Practitioners Act 1982.
- (3) A proposed Gambling Commissioner must disclose to the Minister, before appointment,—
  - (a) any interest (direct or indirect) or other appointment that affects, or may affect, the discharge of the Gambling Commission's functions; and
  - (b) the proposed appointee's financial position; and
  - (c) whether or not the proposed appointee has been convicted of an offence in New Zealand or overseas.

- (4) A Gambling Commissioner must disclose to the Minister any interest, other appointment or conviction referred to in subsection (3) that arises during the term of the Commissioner's appointment.

### **223 Termination of appointment of Gambling Commissioner**

- (1) The appointment of a Gambling Commissioner (including the Chief Gambling Commissioner) may be terminated by the Governor-General on the recommendation of the Minister for any reason justifying removal, including—
- (a) the inability or incapacity to perform; or
  - (b) neglect; or
  - (c) misconduct; or
  - (d) bankruptcy; or
  - (e) the non-disclosure of information under section 222; or
  - (f) an interest, other appointment or conviction disclosed under section 222(4).
- (2) Before recommending termination, the Minister must give the Gambling Commissioner the reasons for the proposed termination and a reasonable opportunity to be heard and to make submissions.
- (3) The Minister must advise the Gambling Commissioner and give him or her reasons in writing for the termination.
- (4) A Gambling Commissioner may resign by writing to the Minister.
- (5) No compensation is payable to a Gambling Commissioner for termination of appointment or for loss of office.

### **224 Functions of Gambling Commission**

- (1) The Gambling Commission's functions are to—
- (a) consider and decide whether to grant applications for casino operator's licences:
  - (b) consider and decide whether to grant applications for the renewal of casino venue licences:
  - (c) consider and decide applications by the Secretary for orders to suspend or cancel a casino licence:
  - (d) consider and decide whether to approve—
    - (i) a mortgage, charge, or encumbrance of a casino licence; and
    - (ii) the proposed transferee or alienee (and persons with a significant influence) of a casino licence

- resulting from the enforcement of a mortgage, charge, or encumbrance over a casino licence:
- (e) consider and decide whether to grant applications for the approval of—
    - (i) casino venue agreements; and
    - (ii) amendments to casino venue agreements:
  - (f) specify the conditions for inclusion in casino licences or vary or revoke the conditions of casino licences:
  - (g) consider and decide appeals against decisions of the Secretary to specify, vary, or revoke, or to refuse to specify, vary, or revoke, the minimum operating standards included in a casino licence:
  - (h) consider and decide appeals on—
    - (i) unsuccessful applications for a licensed promoter's licence; and
    - (ii) a decision by the Secretary to cancel, suspend, or refuse to renew a licensed promoter's licence; and
    - (iii) a decision by the Secretary to amend or revoke a condition of, or add a new condition to, a licensed promoter's licence:
  - (i) consider and decide appeals on—
    - (i) unsuccessful applications for a class 3 operator's licence, class 4 operator's licence, or class 4 venue licence; and
    - (ii) a decision by the Secretary to cancel or suspend or refuse to renew or amend a class 3 operator's licence, class 4 operator's licence, or class 4 venue licence; and
    - (iii) a decision by the Secretary to amend or revoke a condition of, or add a new condition to, a class 3 operator's licence, class 4 operator's licence, or class 4 venue licence:
  - (j) consider and decide appeals on—
    - (i) a decision by the Secretary not to grant a certificate of approval; and
    - (ii) a decision by the Secretary to suspend or cancel a certificate of approval:
  - (k) consider and decide appeals under section 150:
  - (l) consider and decide applications for temporary authority to operate a casino under section 187:
  - (m) deal with matters under section 156:

- (n) consider and deal with complaints under section 81:
  - (o) facilitate a meeting and advise the responsible Ministers on the proposed problem gambling levy in accordance with the process established under sections 317 to 325:
  - (p) advise the Minister on matters relating to the performance of its functions or the administration of this Act, either at the Minister's request or on its own initiative:
  - (q) exercise any other functions that are given to the Gambling Commission by this Act or by another enactment.
- (2) The Gambling Commission must make decisions independently of the Minister and the Secretary.

### **225 Gambling Commission is Commission of Inquiry**

- (1) Within the scope of its jurisdiction, and subject to this Act, the Gambling Commission (including any division) must be treated as if it were a Commission of Inquiry under the Commissions of Inquiry Act 1908.
- (2) Accordingly, the Commissions of Inquiry Act 1908 applies to the Gambling Commission.
- (3) The Gambling Commission has no power to—
- (a) acquire, hold, or alienate property; or
  - (b) employ people.
- (4) Powers conferred on the Gambling Commission by this subpart are additional to powers conferred on the Gambling Commission by the application of the Commissions of Inquiry Act 1908.

### **226 Gambling Commission may engage experts and receive wide evidence**

- (1) The Gambling Commission may appoint experts to assist the Gambling Commission to exercise its functions or powers, or to do any of the things specified in subsection (2).
- (2) A person appointed as an expert—
- (a) may be required to make inquiries, conduct research, facilitate consultation, or provide reports on matters before the Gambling Commission; and
  - (b) is entitled to be paid fees by the Gambling Commission at rates that the Gambling Commission thinks fit; and
  - (c) may be separately reimbursed for expenses reasonably incurred in performing the services.

- (3) The Gambling Commission may—
  - (a) reconsider any matter that has been determined by it and issue a fresh determination; and
  - (b) receive evidence that is not admissible in a court.

### **227 Gambling Commission to sit in divisions**

- (1) A division of the Gambling Commission must carry out the functions of the Gambling Commission under section 224(1)(g) to (n), and a division of the Gambling Commission may, but is not obliged to, carry out its other functions. A decision to sit as a division must be made by the full Gambling Commission.
- (2) A division may consist of the Chief Gambling Commissioner alone or the Chief Gambling Commissioner and not more than 2 other Gambling Commissioners.
- (3) The Chief Gambling Commissioner decides who will sit in a division.
- (4) An applicant to the Gambling Commission under section 224(1)(d) to (j) and the Secretary are entitled to make written submissions to a division of the Gambling Commission.
- (5) A division of the Gambling Commission may call for written submissions from any person that the Chief Gambling Commissioner considers may be able to assist that division.
- (6) A division may, on the application of a party entitled to make submissions under subsection (4), or on its own motion, hold an oral hearing. If a division holds a hearing, it is not bound by formal process.

### **228 Department must service Gambling Commission**

- (1) The Secretary must arrange the administrative services necessary for the Gambling Commission to perform its functions.
- (2) The Secretary must ensure that staff allocated to perform administrative services for the Gambling Commission are separated, physically and operationally, from other staff responsible for policy, licensing, and compliance concerning gambling.
- (3) If the Gambling Commission requires a service from the Secretary that is not prescribed by this Act, the Chief Gambling Commissioner must report the requirement to the Minister.

- (4) After consultation with the Secretary, the Minister may agree to the Secretary providing the services required by the Gambling Commission.
- (5) The Secretary must report annually on the Department's servicing of the Gambling Commission in the Department's annual report.
- (6) Information held by the Gambling Commission is to be treated as information of the Department.

**229 Gambling Commission must provide annual report to Minister**

- (1) The Gambling Commission must, as soon as practicable after 30 June each year, provide to the Minister an annual report of its operations during the 12 months preceding 30 June of that year.
- (2) The Minister must, within 12 sitting days of receiving the annual report, present a copy of it to the House of Representatives.

**230 Remuneration of Gambling Commissioners**

- (1) The amount of a Gambling Commissioner's remuneration must be determined by the Minister in accordance with the fees framework for statutory and other bodies.
- (2) A Gambling Commissioner's remuneration must be paid by the Department.
- (3) A Gambling Commissioner is entitled to be reimbursed by the Department for actual and reasonable expenses incurred in performing the Gambling Commission's functions.

**231 Disclosure of interests**

- (1) A Gambling Commissioner must disclose to the Gambling Commission any conflict or potential conflict of interest (direct or indirect) that affects, or may affect, the proper and impartial discharge of any of the Commissioner's functions.
- (2) A disclosure under this clause must be recorded in the Gambling Commission's minutes and, unless the Gambling Commission resolves otherwise, the Commissioner—
  - (a) must not take part, after the disclosure, in any deliberation or decision of the Gambling Commission relating to the matter that is the subject of the disclosure; and



- (b) must be disregarded for the purpose of forming a quorum of the Gambling Commission for any deliberation or decision on that matter.

**232 Corrupt use of official information**

Every Gambling Commissioner is, while acting as such, an official within the meaning and for the purposes of Part VI of the Crimes Act 1961.

**233 Other enactments applying to Gambling Commission**

The following enactments apply to the Gambling Commission:

- (a) the Official Information Act 1982;
- (b) the Ombudsmen Act 1975;
- (c) the Privacy Act 1993;
- (d) the Archives Act 1957.

**234 Schedule 3 applies to Gambling Commission**

Schedule 3 applies to the Gambling Commission.

**235 Appeals**

- (1) A person affected by a decision of the Gambling Commission in performing any of the functions in section 224(1)(a) to (f) may appeal that decision to the High Court.
- (2) The High Court may reconsider afresh a matter that comes to it on appeal and may confirm, modify, or reverse a decision of the Gambling Commission or may direct the Gambling Commission to reconsider a decision.
- (3) A person may appeal a decision of the High Court made on appeal under subsection (1) to the Court of Appeal—
  - (a) on a point of law only; and
  - (b) with the leave of the Court of Appeal.
- (4) An appeal under subsection (1) or subsection (3) must be made within 15 working days of the date of the notice of the Gambling Commission's decision, or any longer period that the High Court or the Court of Appeal may allow.
- (5) There is no appeal to a court against a decision of the Gambling Commission in performing the functions in section 224(1)(g) to (q).

## Subpart 2—New Zealand Lotteries Commission

### *New Zealand Lotteries Commission*

#### **236 New Zealand Lotteries Commission**

- (1) The New Zealand Lotteries Commission established under section 72 of the Gaming and Lotteries Act 1977 is continued in existence.
- (2) The Lotteries Commission is a legal entity in its own right separate from its board members and the Crown, and continues in existence until dissolved by an Act.

Compare: 1977 No 84 s 72

#### **237 Crown entity status**

The Lotteries Commission is a Crown entity for the purposes of the Public Finance Act 1989.

#### **238 Functions of Lotteries Commission**

The functions of the Lotteries Commission are—

- (a) to promote, organise, and conduct New Zealand lotteries for the purpose of generating profits for distribution by the New Zealand Lottery Grants Board, or for a community purpose for which a special purpose lottery is promoted under section 245:
- (b) to maximise profits so generated, subject to ensuring that the risks of problem gambling and underage gambling are minimised:
- (c) to make rules regulating the conduct and operation of New Zealand lotteries in accordance with section 243:
- (d) to advise the Minister on matters relating to New Zealand lotteries.

Compare: 1977 No 84 s 83

#### **239 Capacity and powers**

- (1) The Lotteries Commission has—
  - (a) the capacity, rights, powers, and privileges of a natural person; and
  - (b) any additional powers conferred by this Act or any other Act.
- (2) The Lotteries Commission may exercise its powers only for the purpose of carrying out its functions.

Compare: 1977 No 84 s 86

**240 Board of Lotteries Commission**

- (1) The board of the Lotteries Commission consists of 5 members to be appointed by the Minister, having regard to the appointees' knowledge, skills, and experience relating to the functions and powers of the Commission.
- (2) In appointing a member, the Minister must take into account the desirability of promoting diversity in membership of Crown entities.

**241 Further provisions about Lotteries Commission**

Schedule 4 applies to the Lotteries Commission, its board members, its procedures, its employees, and related matters.

**242 Ministerial directions**

- (1) In the performance and exercise of its functions and powers, the Lotteries Commission must have regard to the policy of the Government in relation to gambling, and must comply with any written direction given to it by the Minister relating to that policy.
- (2) Written directions given by the Minister under subsection (1) may require the Lotteries Commission to vary or revoke any rule made under section 243 or under previous gaming Acts, or to make a new rule under that section.
- (3) The Minister must consult with the Lotteries Commission before giving a direction to it.
- (4) As soon as practicable after giving a direction under this section, the Minister must—
  - (a) publish a copy of it in the *Gazette*; and
  - (b) present a copy of it to the House of Representatives.
- (5) A direction may be amended or revoked in the same way as it may be given.

Compare: 1977 No 84 s 87

*Operation of New Zealand lotteries***243 Lottery rules**

- (1) The Lotteries Commission may make rules not inconsistent with this Act for or with respect to the conduct and operation (including the establishment and distribution of prize funds) of New Zealand lotteries or any type of New Zealand lotteries.

- (2) The rules must be approved by the Minister before being made.
- (3) Any rules made under this section take effect on and from the date of their notification in the *Gazette*, or any later date that is specified in the rules.
- (4) Rules made under this section may authorise designs or specifications or other matters of detail to be determined by the Lotteries Commission, and may not be challenged on the ground that they leave such matters to the discretion of the Commission.
- (5) Despite subsection (4), the Minister may, in writing to the Lotteries Commission, require that any design, specification, or other matter of detail be incorporated in rules and not left to the discretion of the Commission.
- (6) In making any rules under this section, the Lotteries Commission must have regard to the desirability of—
  - (a) minimising the risk of players or participants in New Zealand lotteries becoming problem gamblers; and
  - (b) minimising the risk of under-age gambling.
- (7) Rules made under this section are deemed to be regulations for the purposes of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.

Compare: 1977 No 84 s 90

**244 Minister may require Lotteries Commission products to comply with regulations and minimum standards**

- (1) The Minister may, by notice to the Lotteries Commission,—
  - (a) require that any New Zealand lottery or class of New Zealand lotteries must comply with the requirements of any regulations or minimum standards made under section 313 or section 327; and
  - (b) accordingly, require the Commission to vary or revoke any relevant rule made under section 243, or make a new rule under that section, to ensure compliance.
- (2) The Minister must cause a copy of the notice to be published in the *Gazette*.
- (3) A notice under this section—
  - (a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989; but

- (b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

**245 Special purpose lotteries**

- (1) The Minister may, from time to time, instruct the Lotteries Commission to promote a New Zealand lottery for any community purpose that the Minister thinks fit.
- (2) In this section, **community purpose** has the same meaning as in section 277.

Compare: 1977 No 84 s 85

**246 Lotteries Commission may determine additional prizes**

The Lotteries Commission may, from time to time, determine additional prizes to be distributed in accordance with a New Zealand lottery to—

- (a) prize winners in any New Zealand lottery; or
- (b) any particular class of such prize winners determined by the Commission.

Compare: 1977 No 84 s 84A(3)

**247 Lottery proceeds**

- (1) Every selling agent of tickets in a New Zealand lottery must pay the proceeds that the agent accrues from the sale of tickets in the lottery, at times or intervals determined by the Lotteries Commission, into such account opened by the Commission under section 258 as the Commission directs.
- (2) A selling agent may however deduct money from those proceeds as authorised by the Lotteries Commission.
- (3) The Lotteries Commission must keep those proceeds in the account, or invest them in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds, until they are dealt with under section 263.
- (4) Any interest accruing from an investment under subsection (3), or any proceeds from the realisation of such an investment, must be paid into the account referred to in subsection (1) and treated as part of the lottery proceeds on which the interest or realisation was accrued.

Compare: 1977 No 84 s 94

**248 Method of drawing lottery**

- (1) Every New Zealand lottery must be drawn and prizes allocated in a manner and under conditions determined by the Lotteries Commission.
- (2) Subsection (1) is subject to any rules made under section 243 and any provisions specified by the Minister under section 244(1)(a).

Compare: 1977 No 84 s 95

**249 Scrutiny of drawings and allocations**

The Secretary and the Auditor-General must exercise the scrutiny that they determine necessary—

- (a) to ensure the security and proper operation of the equipment, processes, and procedures used in connection with the drawing of a New Zealand lottery or an allocation; and
- (b) over the drawing and accuracy of the official results of New Zealand lotteries.

Compare: 1977 No 84 ss 96, 96A

**250 Drawings to be open to public at discretion of Lotteries Commission**

- (1) Except as provided in subsection (2), the drawing of every New Zealand lottery must be open to the public.
- (2) The Lotteries Commission may, from time to time, determine that the drawing of a particular type of New Zealand lottery is not to be open to the public. In making such a determination, the Commission must have regard to the method and frequency of the drawing and the technology used in the drawing.
- (3) Where the drawing of a New Zealand lottery is open to the public, the Lotteries Commission must publicly notify or announce, in any manner that it thinks fit,—
  - (a) the time and place of the drawing; and
  - (b) in the case of a drawing that is to be broadcast, the time and channel or station of the drawing.
- (4) Subsection (2) is subject to any rules made under section 243 and to any provisions specified by the Minister under section 244(1)(a).

Compare: 1977 No 84 s 97

**251 Official result**

- (1) Immediately after the drawing of any New Zealand lottery, the Lotteries Commission must—
  - (a) carry out any procedure for verification of the result for the time being agreed by the Commission, the Department, and the Auditor-General; and
  - (b) announce or display the official result in accordance with the rules for the type of New Zealand lottery to which the drawing relates.
- (2) No person, other than a broadcaster with whom the Lotteries Commission specifically contracts for the purpose, may publish or broadcast the announced results of a New Zealand lottery before the official result is announced or displayed under subsection (1)(b).
- (3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$200.
- (4) In this section, **official result** means the result of drawing a New Zealand lottery under this Act.

Compare: 1977 No 84 s 98

**252 Lottery prize fund**

- (1) All the money that constitutes the prize fund of a New Zealand lottery must be paid into a lottery prize fund account.
- (2) The Lotteries Commission must pay out of the lottery prize fund account the prizes set for the relevant type of lottery in accordance with rules made under section 243 and any provisions specified by the Minister under section 244(1)(a).
- (3) The money kept in the lottery prize fund account may be applied only towards the payment of prizes in New Zealand lotteries, except as provided in subsection (4).
- (4) The Lotteries Commission may invest any money kept in the lottery prize fund account that is not immediately required for the payment of prizes—
  - (a) in any securities in which trust funds may be invested by the trustees in accordance with the Trustee Act 1956 or in accordance with any other statutory authority; or
  - (b) in any other manner that the Commission determines with the approval of the Minister.

- (5) Any interest accruing from those investments, and any proceeds from the realisation of the investments,—
- (a) must be paid into the lottery prize fund account; and
  - (b) forms, in accordance with any rules made under section 243 and any provisions specified by the Minister under section 244(1)(a), a prize pool for any lottery conducted at a later date.

Compare: 1977 No 84 s 101

### **253 Entitlement to prizes**

- (1) The Lotteries Commission must pay the prizes of each New Zealand lottery to the participants who are entitled to those prizes in accordance with the official results of the drawing of that lottery and in accordance with any rules made under section 243 and any provisions specified by the Minister under section 244(1)(a).
- (2) If, after the drawing of a lottery, no entitlement exists to a prize offered in the lottery, the amount of the prize must—
- (a) be retained within the lottery prize fund account; and
  - (b) be dealt with in accordance with any rules made under section 243 and any provisions specified by the Minister under section 244(1)(a).

Compare: 1977 No 84 s 102

### **254 Claims to lottery prizes**

- (1) A participant who is entitled to a lottery prize may be required to submit evidence of his or her entitlement to the prize, in accordance with rules made under section 243 and any provisions specified by the Minister under section 244(1)(a), to the Lotteries Commission or to a selling agent of the Commission.
- (2) If the Lotteries Commission or, if appropriate, the selling agent is satisfied that the participant is entitled to the prize, the Commission or agent must pay the participant the amount of the prize out of the money constituting the prize fund for the lottery.
- (3) If the Lotteries Commission is not satisfied that a claiming participant is entitled to the prize claimed, the Commission must retain the amount of the prize in the lottery prize fund account until the question of entitlement is resolved.



- (4) If it is determined that the entitlement exists, the Lotteries Commission must pay the amount of the prize in accordance with that determination.
- (5) If it is determined that no entitlement exists, the Lotteries Commission must deal with the amount of the prize in accordance with section 256 as if it were an unclaimed prize.
- (6) Despite anything in this section, no claim submitted to the Lotteries Commission under subsection (1) may be recognised if it is made later than 12 months after the drawing of the lottery to which it relates.

Compare: 1977 No 84 s 103

### **255 No entitlement to interest**

A person is not entitled to the payment of interest in respect of a prize in a New Zealand lottery unless the Lotteries Commission had no reasonable grounds for—

- (a) questioning entitlement to the prize; or
- (b) withholding payment of the prize.

Compare: 1977 No 84 s 104

### **256 Unclaimed prizes**

- (1) If any prize in a New Zealand lottery is not claimed within 12 months after the drawing of that lottery, or any prize in a New Zealand lottery that is an instant game is not claimed within 12 months after the date of closure of that instant game,—
  - (a) the Lotteries Commission must retain the prize in the lottery prize fund account, if so provided in rules made under section 243 or provisions specified by the Minister under section 244(1)(a); and
  - (b) the prize then forms, in accordance with those rules or provisions, a part of the prize pool for any New Zealand lottery conducted at a later date.
- (2) If rules made under section 243 or provisions specified by the Minister under section 244(1)(a) do not provide for the retention of an unclaimed prize in the lottery prize fund account, then, at the expiry of the 12-month period that applies under subsection (1), the Lotteries Commission must pay the amount of the prize from the lottery prize fund account into such account opened under section 286 as the Secretary

directs. The amount of the prize must then be dealt with as if it were part of the undistributed profits of New Zealand lotteries.

- (3) For the purposes of this section, the date of closure of a New Zealand lottery that is an instant game is—
- (a) the date on which the last ticket is sold, or any tickets remaining unsold are cancelled by the Lotteries Commission; or
  - (b) if provision is made by the Lotteries Commission for additional prizes in accordance with section 246, the date on which those additional prizes are determined.

Compare: 1977 No 84 s 105

#### *Financial provisions relating to Lotteries Commission*

#### **257 Funds of Lotteries Commission**

The funds of the Lotteries Commission consist of—

- (a) all lottery proceeds set aside for expenses incurred or expected to be incurred in conducting lotteries and for the purposes of the Commission under section 263;
- (b) all money advanced or made available to the Commission under section 288;
- (c) all money received by the Commission by way of fees, rent, or otherwise in respect of—
  - (i) any real or personal property vested in or controlled by the Commission; or
  - (ii) the performance or exercise of any of the functions or powers of the Commission;
- (d) all money received by the Commission from the sale or other disposal of any of its real or personal property;
- (e) all accumulations of income derived from any such money.

Compare: 1977 No 84 s 106

#### **258 Bank accounts**

- (1) The Lotteries Commission may open at any bank or banks the accounts that are necessary for the performance and exercise of its functions and powers.
- (2) All money belonging to the Lotteries Commission must be paid into the appropriate account, as determined by the Commission, as soon as practicable after its receipt by the Commission or an employee of the Commission.

- (3) Money may be paid out of any bank account of the Lotteries Commission only with the authority of the Commission and in accordance with any general or special directions of the Commission.
- (4) A bank account of the Lotteries Commission may be operated on only by cheque or other instrument that is—
  - (a) signed by an officer of the Commission who is authorised by the Commission to sign cheques or other instruments drawn on that account; and
  - (b) countersigned by a member of the Commission or other person who is authorised by the Commission to countersign the cheques or other instruments.

Compare: 1977 No 84 s 107

### **259 Estimates of income and expenditure**

- (1) The Lotteries Commission must, before 1 June in each financial year, prepare and submit to the Minister an estimate of the Commission's income and expenditure for the next financial year.
- (2) The estimate must be approved by the Minister either—
  - (a) as submitted by the Lotteries Commission; or
  - (b) after it has been amended by the Commission in a manner required by the Minister.
- (3) All expenditure by the Lotteries Commission in any financial year must be in accordance with the approved estimate for that year, unless the Minister expressly approves otherwise.
- (4) The Commission must also promptly supply to the Secretary for Internal Affairs the information needed by the Secretary to enable him or her to comply with section 276(1).

Compare: 1977 No 84 s 108

### **260 Borrowing powers**

- (1) The Lotteries Commission may borrow money from any bank by way of overdraft or in accordance with section 288.
- (2) Without limiting subsection (1), the Lotteries Commission may, with the prior written approval of the Minister,—
  - (a) borrow money by way of mortgage, debentures, bonds, or otherwise:

- (b) mortgage or charge any of its real or personal property, whether present or future, in the manner that it thinks fit.

Compare: 1977 No 84 s 109

## **261 Loans**

The Lotteries Commission may, for the purpose of assisting in the promotion, organisation, and conduct of New Zealand lotteries, or for other purposes that the Minister approves,—

- (a) make advances to any person or body corporate, with or without security, at the rates of interest that it determines or free of interest:
- (b) guarantee to any person or body corporate, with or without security, advances made by any person or body corporate.

Compare: 1977 No 84 s 110

## **262 Investment of funds**

The Lotteries Commission may invest any of its funds in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

Compare: 1977 No 84 s 111

## **263 Payment of profits**

- (1) Except as provided in subsection (2), the Lotteries Commission must, at the intervals or times that the Minister may direct, consistent with the estimate of income and expenditure approved by the Minister under section 259, pay its profits into such account opened under section 286 as the Secretary directs.
- (2) The Minister may from time to time authorise the Lotteries Commission to retain the portion of its profits that the Minister thinks fit for the purposes of the Commission.

Compare: 1977 No 84 s 99

## **264 Exemption from income tax**

The Lotteries Commission is exempt from the payment of income tax.

Compare: 1977 No 84 s 112

**265 Financial year**

The financial year of the Lotteries Commission is the period commencing with 1 July in each year and ending with 30 June in the following year.

Compare: 1977 No 84 s 113

**266 Accounts and audit**

- (1) The Lotteries Commission is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.
- (2) The financial statements that must be prepared by the Lotteries Commission under Part V of the Public Finance Act 1989 must include its financial transactions relating to the proceeds from sales of tickets in New Zealand lotteries and every special purpose lottery promoted under section 245.
- (3) In addition to the other provisions in this Part, further provisions of the Public Finance Act 1989 concerning the accountability and financial resources of Crown entities apply to the Lotteries Commission.

Compare: 1977 No 84 s 114

*Other matters***267 Protection of name**

- (1) No body may be incorporated or registered under any enactment or in any other manner—
  - (a) under the name “New Zealand Lotteries Commission”; or
  - (b) under any other name that so resembles the name of the Lotteries Commission that it is likely to mislead any person.
- (2) No person other than the Lotteries Commission may, either alone or with any other person,—
  - (a) trade or carry on business under the name “New Zealand Lotteries Commission” unless that person has carried on business continuously under the name of “New Zealand Lotteries Commission” since any date before 1 November 1986; or
  - (b) trade or carry on business under any other name, knowing that the name so resembles the name of the Lotteries Commission that it is likely to mislead any person.

- (3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to,—
- (a) in the case of an individual,—
    - (i) a fine not exceeding \$5,000; and
    - (ii) in the case of a continuing offence, a further fine not exceeding \$500 for every day or part of a day during which the offence has continued;
  - (b) in the case of a body corporate,—
    - (i) a fine not exceeding \$50,000; and
    - (ii) in the case of a continuing offence, a further fine not exceeding \$5,000 for every day or part of a day during which the offence has continued.

### **268 Protection of product names**

- (1) No person other than the Lotteries Commission may, either alone or with any other person, promote, organise, or conduct any gambling—
- (a) under the product names specified in subsection (3); or
  - (b) under any other name, knowing that the name so resembles a product name specified in subsection (3) that it is likely to mislead any person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to,—
- (a) in the case of an individual, a fine not exceeding \$5,000;
  - (b) in the case of a body corporate,—
    - (i) a fine not exceeding \$50,000; and
    - (ii) in the case of a continuing offence, a further fine not exceeding \$5,000 for every day or part of a day during which the offence has continued.
- (3) The specified product names are “Lotto Combo”, “Instant Kiwi”, and “Golden Kiwi”.
- (4) Nothing in this section prevents the use by any person of the words “Lotto”, “Combo”, “Instant”, “Golden”, or “Kiwi” separately.

Compare: 1977 No 84 ss 115A, 139

### **269 Contracts with other bodies**

- (1) Without limiting the generality of section 239, the Lotteries Commission may enter into an arrangement, agreement, or contract with any person or body corporate or department of State to assist the Commission by doing any act or thing

necessary for, or incidental to, the promotion, organisation, or conduct of New Zealand lotteries.

- (2) For the purposes of enabling the Lotteries Commission to enter into such an arrangement, agreement, or contract with any body corporate constituted by or under any other Act to exercise particular functions or powers, that body corporate is authorised, in so far as it is not authorised under any other Act, to do or suffer to be done any act or thing necessary for, or incidental to assist in, the promotion, organisation, or conduct of New Zealand lotteries.

Compare: 1977 No 84 ss 86, 88

### **270 Accounts of bodies assisting Lotteries Commission and audit of accounts**

- (1) A person, body corporate, or department that has entered into an arrangement, agreement, or contract under section 269(1) to do anything as agent for the Lotteries Commission, or otherwise act on behalf of the Commission, in the promotion, organisation, or conduct of any New Zealand lottery must—
- (a) keep full and true accounts of everything done by him, her, or it relating to the lottery in a manner and form approved by the Commission; and
  - (b) as soon as practicable after the end of each financial year, or (if earlier) after the termination of the arrangement, agreement, or contract,—
    - (i) prepare a statement of account of his, her, or its activities on behalf of the Commission during the year or other relevant period; and
    - (ii) on receipt of a written request from the Commission, submit the statement to the Commission.
- (2) Every statement proposed under subsection (1) must be audited by the Auditor-General, who, for that purpose, has and may exercise all his or her powers under the Public Audit Act 2001.
- (3) For the purposes of this section, **financial year** means the period commencing with 1 July in each year and ending with 30 June in the following year.

Compare: 1977 No 84 s 89

*Transitional provision***271 Members of Lotteries Commission continue in office**

The persons who were members or alternate members of the Lotteries Commission immediately before the commencement of this subpart are deemed to have been appointed as members or alternate members of the board of the Lotteries Commission, and continue in office as such for the remainder of the terms for which they were appointed as members or alternate members of the Lotteries Commission.

**Subpart 3—New Zealand Lottery Grants Board***New Zealand Lottery Grants Board***272 New Zealand Lottery Grants Board**

- (1) The New Zealand Lottery Grants Board established by section 116A of the Gaming and Lotteries Act 1977 is continued in existence.
- (2) The Board consists of—
  - (a) the Minister, who is the presiding member of the Board;
  - (b) the Prime Minister;
  - (c) the member of the House of Representatives who is for the time being the Leader of the Opposition;
  - (d) 3 persons appointed by the Governor-General having regard to the appointees' knowledge, skills, and experience relating to the functions and powers of the Board.

Compare: 1977 No 84 s 116A

**273 Members and procedure**

Part 1 of Schedule 5 applies in relation to the Board's members and procedure.

**274 Function of Board**

The general function of the Board is to determine the proportions in which the profits of New Zealand lotteries are allocated for distribution in accordance with this subpart.

Compare: 1977 No 84 s 116F(1)



**275 Powers of Board**

In addition to the powers specifically provided in this Act, the Board has all the powers that are necessary or expedient to enable it to perform its functions.

Compare: 1977 No 84 s 116F(2)

**276 Amounts available for allocation by Board**

- (1) The Board may from time to time require the Secretary for Internal Affairs to prepare and forward to the Board a statement showing—
  - (a) the amount of profits arising from New Zealand lotteries and in hand at the date of the statement;
  - (b) an estimate of the amount of profits arising from New Zealand lotteries expected to be derived during the period specified by the Board;
  - (c) an estimate of the costs of administration payable under this subpart during that period.
- (2) The Board, after considering the statement, must—
  - (a) determine the amount that will be allocated to each distribution committee, or to the Minister, during the period to which the determination relates; and
  - (b) notify each distribution committee of the amount allocated to it for that period.
- (3) A copy of every notification made under this section must be forwarded by the Secretary of the Board to the Secretary for Internal Affairs.
- (4) A determination of the Board under this section may, by subsequent resolution, be varied or revoked and the Board must notify each distribution committee concerned of the subsequent resolution.

Compare: 1977 No 84 s 116G

**277 Purposes for which profits may be distributed**

- (1) Except as otherwise expressly provided in this subpart, the profits of New Zealand lotteries must be distributed, in accordance with the determinations of the distribution committees or the Minister, for community purposes only and for no other purpose.

- (2) For the purposes of this section, a distribution is for community purposes if it would contribute to the building of strong sustainable communities by encouraging or enabling—
- (a) community self-reliance, capacity building, and stability; or
  - (b) opportunities for social, recreational, civil, or cultural participation and reducing or overcoming barriers to such participation; or
  - (c) community and environmental health; or
  - (d) development and preservation of New Zealand's arts, culture, heritage, and national identity; or
  - (e) sports and recreation.
- (3) A distribution for community purposes must be for a purpose that involves a community benefit of a public nature. A distribution will not be treated as being for community purposes if it involves private pecuniary profit or gain for an individual or body, except to the extent that the profit or gain arises as a mere incident of the principal purpose or purposes of the distribution.
- (4) In considering the matters specified in subsection (2), a distribution committee or the Minister must have regard to the needs of Māori.
- (5) In considering those matters, a distribution committee or the Minister must, as appropriate, also have regard to the needs of older people, Pacific people and other ethnic communities, women, youth, and people with disabilities.
- (6) Despite anything in this section, if the Minister instructs the Lotteries Commission to promote and conduct a New Zealand lottery for a particular purpose under section 245, the profits of the lottery must be expended for that purpose.
- (7) Profits of New Zealand lotteries distributed in accordance with subsection (1) or expended in accordance with subsection (2) are not subject to section 16(1) of the Public Finance Act 1989.

Compare: 1977 No 84 s 116H

## **278 Distributions by Minister**

- (1) The Board may allocate from profits of New Zealand lotteries a specified sum of money for distribution by the Minister in

response to applications referred to the Minister under section 282(2).

- (2) The Minister may distribute any such sum accordingly, on a qualifying application referred to the Minister under section 282(2) for the purposes set out in section 277.

Compare: 1977 No 84 s 116I

### **279 Allocation of profits to certain statutory bodies**

- (1) The Board may allocate from the profits of New Zealand lotteries a specified sum of money for expenditure, in accordance with the terms of their statutes, by any of the following bodies:
- (a) the Arts Council of New Zealand Toi Aotearoa constituted under the Arts Council of New Zealand Toi Aotearoa Act 1994;
  - (b) the New Zealand Film Commission established under the New Zealand Film Commission Act 1978;
  - (c) Sport and Recreation New Zealand, as established under the Sport and Recreation New Zealand Act 2002.
- (2) Where a sum is allocated to any of these bodies,—
- (a) the Board must notify the Secretary and that body accordingly; and
  - (b) on receipt of the notification, the Secretary must cause the amount allocated to be paid to the body concerned at the intervals that the Board determines.

### *Distribution committees*

#### **280 Distribution committees**

- (1) For the purposes of this subpart, the Minister may, by notice in the *Gazette*, establish such number of distribution committees as he or she thinks fit.
- (2) A distribution committee consists of the number of persons that the Minister thinks fit, being not less than 3 nor more than 5 persons.
- (3) The members of each distribution committee are to be appointed by the Minister having regard to the appointees' knowledge, skills, and experience relating to the functions and powers of the distribution committee.
- (4) The Minister must appoint a member of each committee to be the presiding member.

- (5) The Minister may vary the purposes in respect of which any distribution committee has been established, and may disestablish any distribution committee.
- (6) Part 2 of Schedule 5 applies in relation to the members and proceedings of distribution committees.
- (7) A notice under subsection (1)—
  - (a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989; but
  - (b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

Compare: 1977 No 84 s 116K

### **281 Functions of distribution committees**

- (1) The functions of each distribution committee are—
  - (a) to approve for distribution in accordance with this subpart those undistributed profits of New Zealand lotteries that are available to it for distribution;
  - (b) to exercise any other functions that may be conferred on it by this subpart or by regulations made under this Act.
- (2) In the exercise of its functions and powers, a distribution committee must—
  - (a) comply with the policy of the Board with respect to the distribution of profits of New Zealand lotteries; and
  - (b) comply with any directions of the Board in respect of that policy.

Compare: 1977 No 84 s 116O

### *Applications for grants*

### **282 Applications for assistance**

- (1) Every application for assistance from profits of lotteries must be addressed to the Secretary, who must refer each application that comes within the purposes specified in section 277 to the appropriate distribution committee.
- (2) If there is no appropriate distribution committee, a qualifying application must be referred to the Minister.
- (3) On receipt of an application, a distribution committee (or the Minister) must, after having regard to the amount available for distribution and all relevant matters,—
  - (a) determine whether or not the application should be granted; and

- (b) if so, determine the amount that should be granted; and
  - (c) notify the Secretary of those determinations.
- (4) A grant by a distribution committee or the Minister may be subject to the terms and conditions, not inconsistent with this Act, that the committee or the Minister thinks fit.
- (5) The distribution committee, or the Minister, may vary or cancel any terms or conditions attached to the grant or add new conditions to the grant.

Compare: 1977 No 84 s 116Q

### **283 Payments of grants**

On receipt of any determination of a distribution committee or the Minister under section 282 approving a grant, the Secretary must—

- (a) cause the amount of the grant to be paid in accordance with the terms of the approval; and
- (b) notify the person to whom the grant is made of any terms or conditions attached to the grant, including any terms and conditions subsequently added to the grant under section 282(5).

Compare: 1977 No 84 s 116R

### **284 Subsidies and loans**

- (1) Subject to any general directions of the Board or any specific restrictions imposed by it, a distribution committee may, in addition to approving grants under section 282, approve—
- (a) the payment of subsidies; or
  - (b) the making of loans, with or without security and at the rates of interest or free of interest that the committee determines, to—
    - (i) local authorities within the meaning of the Local Government Act 2002 (subject to the provisions of that Act as to loans); or
    - (ii) organisations of a kind approved for the time being by the Board; or
  - (c) the variation, cancellation, or discharge of any subsidy or loan previously approved under this subsection, or the increase of the amount of any such subsidy or loan.
- (2) On being notified of an approval under subsection (1), the Secretary must, in accordance with the terms of the approval,—

- (a) pay any subsidy referred to in the approval:
  - (b) make any loan referred to in the approval:
  - (c) do any other thing necessary to give effect to the approval.
- (3) An approval given under this section may be made subject to any terms and conditions that the distribution committee thinks fit.
- (4) For the purposes of this section, a distribution committee may—
- (a) establish any endowment or create any trust upon any terms and conditions, and having the objects, that the committee thinks fit; and
  - (b) appoint trustees for the purpose.
- (5) All amounts of interest paid in respect of loans made under this section, and money received in repayment of the loans, are deemed to be profits arising from New Zealand lotteries, and must be dealt with accordingly.

Compare: 1977 No 84 s 116S

### **285 Secretary is corporation sole for certain purposes**

- (1) For the purposes of section 284(2), the Secretary, where acting on behalf of a distribution committee, is incorporated as a corporation sole with perpetual succession and a seal of office.
- (2) The corporation is capable of suing and being sued and, for the purposes of section 284(2), may acquire, hold, and dispose of real and personal property and do and suffer all acts and things that a body corporate may do and suffer.
- (3) The seal of the corporation may not be affixed to any instrument or document except in the presence of the Secretary, or an officer of the Department for the time being authorised by the Secretary for the purpose of this section, who must attest by his or her signature the fact and date of the affixing of the seal.
- (4) All courts and persons acting judicially must—
- (a) take judicial notice of the seal of the corporation that has been affixed to any instrument or document; and
  - (b) until the contrary is proved, presume that the seal was properly affixed.

Compare: 1977 No 84 s 116T

*Financial provisions relating to Board and  
distribution committees*

**286 Bank accounts**

- (1) For the purposes of this subpart and subpart 2, the Secretary may open at any bank 1 or more accounts under the names that the Secretary thinks fit.
- (2) The accounts may be operated only by cheque signed by any 2 officers of the Department who are authorised by the Secretary for the purpose.

Compare: 1977 No 84 s 116U

**287 Investment of money**

- (1) Subject to any directions of the Board, the Secretary may invest any profits of New Zealand lotteries in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds, pending their distribution under section 277.
- (2) Any amounts of interest arising from the investments, and the proceeds of any realisation of the investments, are deemed to be profits arising from New Zealand lotteries and must be dealt with accordingly.

Compare: 1977 No 84 s 116V

**288 Loans to Lotteries Commission**

- (1) Despite section 287, the Board may authorise the Secretary to advance any profits of New Zealand lotteries, pending their distribution under section 277, to the Lotteries Commission to enable the Commission to perform and exercise its functions and powers under subpart 2.
- (2) Any such advance may be made by the Secretary, with or without security, at rates of interest determined by the Board.
- (3) The Board may guarantee, with or without security, advances made to the Lotteries Commission by any other person under section 260.
- (4) Any money required to be paid by the Secretary by virtue of a guarantee given by the Board under subsection (3) is to be paid by the Secretary out of the undistributed profits of New Zealand lotteries.

Compare: 1977 No 84 s 116W

**289 Miscellaneous expenditure**

There may be paid out of the undistributed profits of New Zealand lotteries the amounts that the Minister approves—

- (a) for any purposes in connection with the management, investment, and distribution of profits of New Zealand lotteries:
- (b) for any research or investigation relating to New Zealand lotteries and other gambling activities:
- (c) for the dissemination of information relating to the distribution of profits of New Zealand lotteries:
- (d) for the administration of this subpart and subpart 2.

Compare: 1977 No 84 s 116X

**290 Accounts of profits and audit**

- (1) The Secretary must keep full and true accounts with respect to—
  - (a) the profits of New Zealand lotteries generally; and
  - (b) the profits of every special purpose lottery conducted under section 245.
- (2) As soon as practicable after the end of each financial year, the Secretary must cause to be prepared and submitted to the Auditor-General full and true accounts with respect to the profits of New Zealand lotteries and every special lottery for that year.
- (3) The accounts must be presented in accordance with generally accepted accounting practice as if they were for an entity.
- (4) The accounts must be audited by the Auditor-General, who, for that purpose, has and may exercise all his or her powers under the Public Audit Act 2001.
- (5) After the audit, the Secretary must forward a copy of the accounts to the Board.

Compare: 1977 No 84 s 116Y

**291 Crown entity**

The Board is a Crown entity for the purposes of the Public Finance Act 1989.

Compare: 1977 No 84 s 116YA



*Miscellaneous provisions***292 Appointment of officers**

- (1) There may be appointed under the State Sector Act 1988 a secretary of the Board, and any other employees that may be required to assist the Minister, the Board, the distribution committees, and the Secretary for Internal Affairs for the purposes of this subpart and subpart 2.
- (2) Any such position may be held separately or in conjunction with any other office in the State services.

Compare: 1977 No 84 s 116ZA

**293 Remuneration of members of Board and distribution committees**

- (1) If the Minister so directs, there may be paid out of the undistributed profits of New Zealand lotteries to any appointed member of the Board, and to any member of a distribution committee or subcommittee, any remuneration by way of fees or allowances that may be approved by the Minister.
- (2) The Board and each distribution committee and subcommittee are statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951, and travelling allowances or expenses in accordance with the provisions of that Act are to be paid out of the undistributed profits of New Zealand lotteries to members of the Board and members of the committees and subcommittees accordingly.

Compare: 1977 No 84 s 116ZB

**294 Protection of members, distribution committees, and employees**

- (1) A member of the Board or of a distribution committee or subcommittee, or an employee of the Secretary, is not liable for any act or omission of the Board or distribution committee or subcommittee by reason only of being such a member or employee.
- (2) Such a member or employee is not liable to any person (other than the Board) for any act or omission by him or her, in the performance or intended performance of the Board's or distribution committee's or subcommittee's functions, unless done in bad faith.

- (3) The Board is liable for any act or omission for which, but for this section, a board member, committee or subcommittee member, or employee would have been liable to a person.
- (4) The Board may indemnify a board member, committee or subcommittee member, or employee for costs incurred by him or her in a proceeding—
- (a) that relates to acts or omissions by him or her in good faith in the performance or intended performance of the Board's or committee's or subcommittee's functions; and
  - (b) in which judgment is given in his or her favour, in which he or she is acquitted, or that is discontinued.
- (5) The Board may effect insurance for a board member, committee or subcommittee member, or employee in relation to—
- (a) liability (other than criminal liability) for any act or omission in the performance or intended performance of the Board's, committee's, or subcommittee's functions; and
  - (b) costs incurred in any proceeding relating to that liability or in any criminal proceedings.
- (6) In this section,—
- (a) references to members and employees include references to former members of the Board or of a distribution committee or subcommittee and to former employees of the Secretary;
  - (b) **effect insurance** includes pay, whether directly or indirectly, the costs of the insurance;
  - (c) **indemnify** includes relieve or excuse from liability whether before or after the liability arises.

Compare: 1977 No 84 s 116ZC

## 295 Annual report

- (1) As soon as practicable after the end of each financial year, the Board must deliver to the Minister a report on its operations and the operations of each distribution committee during that financial year.
- (2) The Minister must present a copy of the report to the House of Representatives in accordance with section 44A of the Public Finance Act 1989.

Compare: 1977 No 84 s 116Z

*Transitional provision***296 Transitional provision**

Despite sections 277, 278, 376, and 377, any application for assistance made under section 116Q of the Gaming and Lotteries Act 1977 before the commencement of this section may be determined by a distribution committee or by the Minister as if this Act had not been passed.

**Subpart 4—Casino Control Authority****297 Casino Control Authority abolished**

- (1) The Authority is dissolved 3 months after this section comes into force.
- (2) Members' terms expire the day before the Authority is dissolved.
- (3) The Authority must deliver to the Minister, before the date of dissolution, a report on its operations for the previous financial year and for the period until dissolution.
- (4) The Minister must present a copy of that report to the House of Representatives in accordance with section 44A of the Public Finance Act 1989.

**298 Consequences of dissolution**

- (1) On the dissolution of the Authority under section 297,—
  - (a) all property belonging to the Authority vests in the Crown; and
  - (b) all money payable to or by the Authority becomes payable to or by the Crown; and
  - (c) all rights, liabilities, contracts, and engagements of the Authority become the rights, liabilities, contracts, and engagements of the Crown; and
  - (d) all proceedings by or against the Authority may be continued, completed, or enforced by or against the Crown.
- (2) In this section, **property**—
  - (a) means every type of property; and
  - (b) includes—
    - (i) every type of estate and interest in property; and
    - (ii) money.

**299 Third parties**

The transfers under section 298—

- (a) do not entitle a person to terminate, alter, or affect in any way the thing transferred; and
- (b) occur despite any restriction or requirement concerning transfer in an enactment or in the thing transferred.

**300 Employees of Authority**

- (1) An employee of the Authority is not entitled to receive any payment or other benefit on the ground that his or her position has ceased to exist if—
  - (a) the position ceases to exist as a result of a transfer of functions from the Authority to the Department; and
  - (b) in connection with that transfer of functions,—
    - (i) the employee is offered equivalent employment in the Department (whether or not the employee accepts the offer); or
    - (ii) the employee is offered, and accepts, other employment in the Department.
- (2) **Equivalent employment** to the employee's employment in the Authority is employment in the Department—
  - (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and
  - (d) on terms that treat the period of service with the Authority (and any other period of service recognised by the Authority as continuous service) as if it were continuous service with the Department.

**Part 4****Harm prevention and minimisation, enforcement,  
and other matters**

## Subpart 1—Age restriction on certain gambling

**301 Age restriction on instant games and similar games**

- (1) Every person under 18 years commits an offence who purchases, or attempts to purchase, a ticket in the following

- games, either on the person's own behalf or on behalf of any other person:
- (a) an instant game that is a New Zealand lottery;
  - (b) a New Zealand lottery that is highly repetitive or frequently drawn;
  - (c) any other similar game run by the Lotteries Commission and that is declared by the Minister, by notice in the *Gazette*, to be subject to this section.
- (2) Every person commits an offence who purchases, or attempts to purchase, a ticket in a game listed in subsection (1) on behalf of a person under 18 years.
- (3) Every person commits an offence who—
- (a) sells, or offers to sell, a ticket in a game listed in subsection (1) to a person under 18 years, whether the ticket is purchased or intended to be purchased for that person or for any other person; or
  - (b) provides credit to a person under 18 years to enable that person to purchase a ticket.
- (4) It is a defence to a charge under subsection (2) or subsection (3) if the defendant proves that the defendant had reasonable grounds to believe that the person to whom the charge relates was 18 years or over.
- (5) Without limiting subsection (4), reasonable grounds exist for the purposes of that subsection if the defendant proves that he or she had sighted an evidence of age document of the person to whom the charge relates, indicating that the person was 18 years or over.
- (6) 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 subsection (3) is liable on summary conviction to a fine not exceeding \$1,000.
- (7) A notice issued by the Minister under subsection (1)(c)—
- (a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989; but
  - (b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

Compare: 1977 No 84 s 116ZE

**302 Age restriction on class 4 gambling**

- (1) Every person under 18 years commits an offence who participates in class 4 gambling.
- (2) Every corporate society commits an offence that allows a person under 18 years to participate in class 4 gambling at a venue for which it holds a class 4 venue licence.
- (3) Every venue manager or person who is a key person at a class 4 venue commits an offence who allows a person under 18 years to participate in class 4 gambling at the venue where the manager or person is employed.
- (4) It is a defence to a charge under subsection (2) if the defendant proves that—
  - (a) the offence was committed without the knowledge of the defendant; and
  - (b) the defendant had reasonable grounds to believe that there were effective procedures operating to minimise the possibility of a person under 18 years participating in class 4 gambling.
- (5) It is a defence to a charge under subsection (3) if the defendant proves that he or she had reasonable grounds to believe that the person to whom the charge relates was 18 years or over.
- (6) Without limiting subsection (5), reasonable grounds exist for the purposes of that subsection if the defendant proves that he or she had sighted an evidence of age document of the person to whom the charge relates, indicating that the person was 18 years or over.
- (7) 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) is liable on summary conviction to a fine not exceeding \$5,000;
  - (c) against subsection (3) is liable on summary conviction to a fine not exceeding \$1,000.

**303 Age restriction on gambling in casinos**

- (1) Every person under 20 years commits an offence who—
  - (a) participates in casino gambling; or
  - (b) is found in the gambling area of a casino.
- (2) Every holder of a casino operator's licence commits an offence who allows a person under 20 years—

- (a) to participate in casino gambling; or
  - (b) to enter, or remain in, the gambling area of a casino.
- (3) It is a defence to a charge under subsection (2) if the defendant proves that he or she had reasonable grounds to believe that the person to whom the charge relates was 20 years or over.
- (4) Without limiting subsection (3), reasonable grounds exist for the purposes of that subsection if the defendant proves that he or she had sighted an evidence of age document of the person to whom the charge relates, indicating that the person was 20 years or over.
- (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) is liable on summary conviction to a fine not exceeding \$5,000.

Compare: 1990 No 62 s 105

### **304 Power to require particulars**

- (1) A gambling inspector or a member of the police who has reasonable grounds to suspect that a person has committed, is committing, or is attempting to commit, an offence against sections 301 to 303 may require the person to give his or her name, address, and date of birth.
- (2) If the gambling inspector or member of the police has reasonable grounds to suspect that the particulars given are false, the gambling inspector or member of the police may require the person to supply evidence verifying those particulars.
- (3) The gambling inspector or member of the police must warn the person of the consequences if—
- (a) the person fails to give his or her particulars; or
  - (b) the person fails, without reasonable excuse, to provide satisfactory verification of those particulars.
- (4) If a person persists in failing to give particulars or, without reasonable excuse, fails to provide satisfactory verification of those particulars after having received a warning under subsection (3), a member of the police may arrest the person without warrant.
- (5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500, who—
- (a) fails to give particulars if required to do so; or

- (b) fails, without reasonable excuse, to provide satisfactory verification of those particulars if required to do so; or
  - (c) provides false particulars or evidence, knowing the particulars or evidence to be false.
- (6) For the purposes of this section, **satisfactory verification of particulars** includes an evidence of age document.

Compare: 1990 No 62 s 111

### **305 Gambling operator must refuse to pay under-age person**

- (1) If a gambling operator under sections 301 to 303 has reasonable grounds to suspect that a person is under the age specified in those sections, the gambling operator must refuse to pay any money or prizes won by the person.
- (2) If any money or prize is withheld under subsection (1), the gambling operator must—
- (a) keep a record of—
    - (i) the name and address of the person who is suspected of being under-age; and
    - (ii) the amount of money or the prize won by the person; and
    - (iii) the date on which the money or prize was withheld; and
  - (b) advise the person that if he or she provides satisfactory verification of his or her age to the gambling operator within 7 days, the person may claim the money or prize withheld.
- (3) Any money or prize from class 4 gambling that is not claimed under subsection (2)(b) within 7 days must be treated as if it were net proceeds of class 4 gambling.
- (4) This section does not apply to any money or prize won in a New Zealand instant game if the winning ticket was purchased before the commencement of this section.

### **306 Court may order return of money or prize**

If a person is convicted under section 301(1) or section 302(1) or section 303(1) of being an under-age gambler, the court may, in addition to any other penalty that may be imposed, order that the person refund the money or return the prize to the gambling operator from whom it was won.



### Subpart 2—Admission to venues

#### **307 Admission to class 4 venue and casino venue**

- (1) The fact that a class 4 venue or casino venue is licensed under this Act does not entitle a person to enter or remain on the premises.
- (2) Subject to any right conferred by or under this Act, or any other Act, a person must leave a class 4 or casino venue if required to do so by, or on behalf of, the holder of a class 4 venue licence or casino operator's licence.
- (3) The holder of a class 4 venue licence or casino operator's licence, or any person acting on behalf of the licence holder, need not give any reason for denying entry to a person or requiring a person to leave a venue.
- (4) This section applies in addition to the Trespass Act 1980 and any other relevant enactment.

Compare: 1990 No 62 s 67

#### **308 Requirement to develop policy for identifying problem gamblers**

- (1) The following persons must develop a policy for identifying problem gamblers:
  - (a) every holder of a class 4 venue licence;
  - (b) every holder of a casino operator's licence who is conducting casino gambling.
- (2) The policy must include any procedures prescribed by regulations made under section 316.
- (3) The holder of a class 4 venue licence or casino operator's licence must display a notice in the gambling area of the class 4 or casino venue advising customers—
  - (a) that the venue has a policy for identifying problem gamblers; and
  - (b) that a copy of the policy will be made available on request.
- (4) The persons required by subsection (1) to develop a policy for identifying problem gamblers must take all reasonable steps to use that policy to identify actual or potential problem gamblers.
- (5) A venue manager, or holder of a casino operator's licence, who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

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

- (1) The venue manager or the holder of a casino operator's licence, or a person acting on behalf of either of those persons, must, after identifying a person under section 308(4) who he or she has reasonable grounds to believe is a problem gambler, approach the person and offer information or advice to the person about problem gambling.
- (2) The information or advice offered under subsection (1) must include a description of—
  - (a) the self-exclusion procedure available under section 310; and
  - (b) any procedures prescribed by regulations made under section 316.
- (3) A venue manager or the holder of a casino operator's licence may, after offering advice or information to a person under subsection (1), issue an exclusion order to the person that prohibits the person from entering the gambling area of the class 4 venue or casino venue (as the case may be) for a period of up to 2 years.
- (4) If an exclusion order is issued under this section, the venue manager or holder of the casino operator's licence may require the person to whom it is issued, as a condition of re-entry, to participate, during the period of exclusion, in a procedure prescribed by regulations made under section 316(1)(e).

**310 Exclusion order must be issued to self-identified problem gambler**

- (1) A venue manager or the holder of a casino operator's licence, or a person acting on behalf of either of those persons, must, promptly after being requested, issue an exclusion order to a person that prohibits the person from entering the gambling area of the class 4 venue or casino venue (as the case may be) for a period of up to 2 years if the person—
  - (a) has identified himself or herself to the venue manager or the holder of a casino operator's licence as being a problem gambler; and
  - (b) has requested that the venue manager or the holder of a casino operator's licence prohibit the person from entering the venue concerned.

- (2) A venue manager or the holder of a casino operator's licence may require a person to whom an exclusion order is issued, as a condition of re-entry, to participate, during the period of exclusion, in a procedure prescribed by regulations made under section 316(1)(e).

**311 Requirement to remove person who enters gambling venue in breach of exclusion order**

- (1) A venue manager or the holder of a casino operator's licence, or a person acting on behalf of either of those persons, must remove any person who enters the gambling area of a class 4 venue or casino venue in breach of an exclusion order issued, or a condition of re-entry imposed, under section 309 or section 310.
- (2) A member of the police may, if called on to assist a person specified in subsection (1) in effecting a removal, use such force as is reasonable in the circumstances to effect the removal.

**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 section 310(1); or
  - (b) in breach of a condition of re-entry imposed under section 309(4) or section 310(2).
- (2) Every venue manager, or holder of a casino operator's licence, commits an offence who, after having received a request under section 310(1), knowingly fails to issue an exclusion order to a self-identified problem gambler.
- (3) Every venue manager, or holder of a casino operator's licence, or person acting on behalf of either of those persons, commits an offence who knowingly allows a person to enter the gambling area of a class 4 venue or casino venue, or knowingly fails to remove a person who has entered those areas,—
  - (a) in breach of an exclusion order issued under section 310(1); or
  - (b) in breach of a condition of re-entry imposed under section 310(2).
- (4) 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 subsection (3) is liable on summary conviction to a fine not exceeding \$10,000.

### Subpart 3—Regulations relating to harm prevention and minimisation

#### **313 Regulations relating to harm prevention and minimisation**

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
  - (a) prescribing the maximum stake that may be placed in gambling authorised by this Act:
  - (b) prescribing the maximum prize limit for gambling authorised by this Act:
  - (c) prescribing requirements for the design, layout, and furnishing of a class 4 venue or casino venue:
  - (d) declaring a venue or class of venue as suitable or unsuitable to be a class 4 venue:
  - (e) regulating the intensity of gambling that may be conducted at a specified venue, including—
    - (i) the frequency at which successive games may be played or successive bets may be placed:
    - (ii) the concentration of gambling positions at a venue, for example, the number and spacing of gaming machines or gaming tables, and the number of seats at those machines or tables:
    - (iii) the kinds or frequency of messages that must be displayed to gamblers during a playing session, for example, the duration of the session, losses during the session, reminders about the desirability of breaks in the session, warnings about problem gambling and advice about sources of assistance for problem gambling:
  - (f) prescribing the information or messages that gambling operators must provide to persons about particular forms of gambling or classes of gambling:
  - (g) prescribing codes requiring the advertising of any form of gambling, or of gambling venues, to be responsible:

- (h) requiring gambling operators to provide problem gambling awareness training for employees involved in supervising gambling:
  - (i) prescribing systems or processes ancillary to gambling, including—
    - (i) the method of paying prizes:
    - (ii) the availability of automatic teller machines at a venue:
    - (iii) the disabling of a bank note acceptor device associated with a gaming machine at a venue:
  - (j) providing for any other matters related to harm prevention or minimisation that are contemplated by, or necessary for giving full effect to, this Act and its due administration.
- (2) Regulations made under subsection (1) may apply—
- (a) to specified licence holders or classes of licence holder:
  - (b) to specified venues or classes of venue:
  - (c) to specified gambling equipment or classes of gambling equipment:
  - (d) to specified games or classes of games or specified classes of gambling.

**314 Regulations relating to gaming machines in class 4 venue**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) prescribing the maximum number of gaming machines that may be operated in New Zealand or any area within New Zealand (or both):
  - (b) prescribing policies, procedures, or systems for considering class 4 operator licence applications if maximum limits are set under paragraph (a) (for example, a sinking lid policy):
  - (c) prescribing transitional and savings provisions if maximum limits are set under paragraph (a):
  - (d) prescribing the maximum stake that may be placed on a single play of a gaming machine:
  - (e) prescribing the maximum prize that may be won from a single play of a gaming machine:
  - (f) prescribing the minimum or maximum payout ratio or average rate of return to a player:

- (g) prescribing requirements relating to the electronic monitoring of gaming machines:
  - (h) providing for any other matters that are contemplated by, or necessary for giving full effect to, this Act and its due administration.
- (2) Regulations made under subsection (1) may apply—
- (a) to specified licence holders or classes of licence holder:
  - (b) to specified venues or classes of venue:
  - (c) to specified gaming machines or classes of gaming machine.

**315 Regulations relating to admission to and exclusion from gambling area of class 4 venue and casino venue**

- (1) The Governor-General may, by Order in Council, make regulations controlling or prohibiting admission to the gambling area of class 4 venues and casino venues.
- (2) The regulations may exclude from the gambling area of a class 4 venue or casino venue any specified class or classes of person, either absolutely or subject to any special conditions that may be specified in the regulations.
- (3) Every person who enters, or remains in, the gambling area of a class 4 venue or casino venue in breach of any regulations made under this section must be treated as having committed an offence against section 4 of the Trespass Act 1980 and is liable accordingly.

Compare: 1990 No 62 s 68

**316 Regulations relating to exclusion of problem gamblers**

- (1) The Governor-General may, by Order in Council, make regulations—
- (a) prescribing 1 or more procedures to enable the holder of a class 4 operator's licence or a casino operator's licence to identify problem gamblers (including the sources of information that may be considered or sought to assist in identifying problem gamblers):
  - (b) prescribing procedures for prohibiting identified problem gamblers from entering the gambling area of a class 4 venue or casino venue:
  - (c) prescribing procedures for removing a person who a venue manager or the holder of a casino operator's

- licence has reasonable grounds to believe is a problem gambler:
- (d) ensuring that access to the gambling area of class 4 venues and casino venues by identified problem gamblers is restricted;
  - (e) prescribing 1 or more procedures that must be completed by a problem gambler as a condition of re-entry to the gambling area of a class 4 venue or casino venue.
- (2) Regulations made under subsection (1) must—
- (a) specify the grounds on which a person may be identified as a problem gambler;
  - (b) set out the steps to be taken to identify a person as a problem gambler;
  - (c) prescribe the persons (including the qualifications of those persons) who are authorised to perform specific functions in relation to identifying and excluding problem gamblers;
  - (d) set out the rights, including the rights of appeal against specified decisions, of a person who is subject to the procedure.

#### Subpart 4—Problem gambling levy

##### **317 Integrated problem gambling strategy focused on public health**

- (1) The Government may allocate responsibility for an integrated problem gambling strategy to a department, which need not be the Department responsible for this Act.
- (2) An integrated problem gambling strategy must include—
  - (a) measures to promote public health by preventing and minimising the harm from gambling; and
  - (b) services to treat and assist problem gamblers and their families and whanau; and
  - (c) independent scientific research associated with gambling, including (for example) longitudinal research on the social and economic impacts of gambling, particularly the impacts on different cultural groups; and
  - (d) evaluation.

**318 Process for developing integrated problem gambling strategy**

- (1) The department that has responsibility for implementing the problem gambling strategy must do the following things in developing the strategy:
  - (a) undertake a needs assessment; and
  - (b) prepare a strategy in draft; and
  - (c) develop costings for the draft strategy; and
  - (d) in the case of the initial levy period, estimate the costs of the department that has responsibility for the integrated problem gambling strategy during the transition to the strategy in the period before the introduction of the initial levy; and
  - (e) take into account any under-recovery or over-recovery of levy in the previous levy period; and
  - (f) estimate annual funding requirements for the strategy for a 3-year period; and
  - (g) estimate, using the formula set out in section 320, levy rates for each gambling sector liable to pay the levy; and
  - (h) consult on the matters outlined in paragraphs (a) to (g) with—
    - (i) at least 1 representative of corporate societies licensed to operate gaming machines in commercial venues; and
    - (ii) at least 1 representative of corporate societies licensed to operate gaming machines in non-commercial venues; and
    - (iii) at least 1 representative of casino licence holders; and
    - (iv) the New Zealand Racing Board; and
    - (v) the New Zealand Lotteries Commission; and
    - (vi) representatives of the providers of problem gambling services; and
    - (vii) any other groups it believes are likely to be affected significantly by the proposed strategy.
- (2) The department responsible for the integrated problem gambling strategy must then submit the proposed strategy and the proposed levy rates to the Gambling Commission and the responsible Ministers.



- (3) On receipt of the proposed integrated problem gambling strategy and the proposed levy rates, the Gambling Commission, or its expert representative, must convene a meeting to consult on the strategy and the rates.
- (4) At a minimum, the following persons must be requested to attend the meeting referred to in subsection (3):
  - (a) the department responsible for the integrated problem gambling strategy:
  - (b) the department responsible for the administration of this Act:
  - (c) 1 or more representatives of gambling operators who will be subject to the levy:
  - (d) 1 or more representatives of providers of problem gambling services:
  - (e) 1 or more representatives of any other groups the Gambling Commission believes are likely to be significantly affected.
- (5) Within 10 working days of the meeting convened under subsection (3), the Gambling Commission must submit a report to the responsible Ministers making recommendations on the total annual amount of the problem gambling levy for the relevant 3-year period and the levy rate for each gambling sector or each gambling operator or each class of gambling operator that is subject to the levy.
- (6) To avoid doubt, the Gambling Commission may engage an expert under subsection (3) in any area that it considers relevant (for example, facilitation or mediation).

### **319 Regulations relating to problem gambling levy**

- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Ministers after they have considered the report submitted to them by the Gambling Commission under section 318(5), make regulations requiring gambling operators to pay a levy to the Crown.
- (2) The purpose of the levy is to recover the cost of developing, managing, and delivering the integrated problem gambling strategy.
- (3) The regulations may impose the levy on a gambling operator, or classes of gambling operator, in a specified sector of gambling or specified sectors of gambling and may prescribe the following:

- (a) the sectors whose gambling operators must pay the levy;
  - (b) the gambling operator or class of gambling operator that must pay the levy;
  - (c) the levy rate for each gambling operator or each class of gambling operator or each gambling sector;
  - (d) the period for which the levy is payable or may be collected;
  - (e) the time by which a levy must be paid, and a penalty for late payment;
  - (f) the value of items W1 and W2 in the formula in section 320;
  - (g) any other matters necessary or desirable to calculate, administer, collect, and enforce the levy.
- (4) Regulations made under subsection (1),—
- (a) if made on or before 30 June in any year, expire on 30 June in the following year except in so far as they are expressly confirmed by Act of Parliament passed during that year; and
  - (b) if made on or after 1 July in any year, expire on 31 December in the following year except in so far as they are expressly confirmed by Act of Parliament passed before the end of that following year.
- (5) The expiry of regulations under subsection (4) does not affect the validity of an act done pursuant to, or in accordance with, the regulations before the date on which the regulations expire.

### 320 Calculating levy

- (1) The formula in subsection (2) provides a mechanism for allocating among gambling operators, and collecting from them, the approximate cost of an integrated problem gambling strategy.
- (2) The following formula is to be used to assist in estimating the proposed levy rates payable by gambling operators:

$$\text{levy rate} = \frac{((A \times W1) + (B \times W2)) \times C}{D}$$

where—

- A is the estimated current player expenditure in a sector divided by the total estimated current player expenditure in all sectors subject to the levy

- B is the customer presentations to problem gambling services that can be attributed to gambling in a sector divided by total customer presentations to problem gambling services in which a sector that is subject to the levy can be identified
- C is the funding requirement for the period for which the levy is payable
- D is the forecast player expenditure in a sector for the period during which the levy is payable
- W1 and W2 are weights, the sum of which is 1.
- (3) In calculating the levy rate under subsection (2),—
- (a) **player expenditure**, in amount A,—
- (i) for the New Zealand Racing Board, has the same meaning as **betting profits** in section 4(2) and (3) of the Gaming Duties Act 1971; and
  - (ii) for a gaming machine operator (including the New Zealand Racing Board), has the same meaning as **gaming machine profits** in section 12B of the Gaming Duties Act 1971; and
  - (iii) for a casino operator, has the same meaning as **casino win** in section 12M of the Gaming Duties Act 1971; and
  - (iv) for the Lotteries Commission, means turnover less prizes paid and payable:
- (b) the proposed amounts of A and B, and the periods to which they apply, must take into account the latest, most reliable, and most appropriate sources of information from—
- (i) the Inland Revenue Department on expenditure; and
  - (ii) the department responsible for the integrated problem gambling strategy on customer presentations to problem gambling services:
- (c) the proposed amount of C must take into account—
- (i) the approximate cost to Government of the integrated problem gambling strategy in the 3-year period for which the levy is payable; and
  - (ii) in the case of the initial levy period, the estimated costs of the department that has responsibility for the integrated problem gambling strategy during the transition to the strategy in the period before the introduction of the initial levy; and

- (iii) any under-recovery or over-recovery of levy in the previous period:
  - (d) the proposed amount of D must take into account—
    - (i) the latest, most reliable, and most appropriate sources of information on past expenditure available from the Inland Revenue Department; and
    - (ii) advice from the Secretary on an appropriate forecasting method:
  - (e) the values of W1 and W2 must be specified in the regulations.
- (4) The problem gambling levy payable by a gambling operator is calculated by multiplying player expenditure by the levy rate calculated for that operator.
- (5) To avoid doubt, in calculating the problem gambling levy, and in making regulations under this section,—
  - (a) the amount of player expenditure may be for less than a year (for example, a week, a month, or a quarter); and
  - (b) the levy may be calculated and collected at intervals of less than a year (for example weekly, monthly, or quarterly).

### **321 Initial levy**

- (1) For the first levy period the levy is payable by the following gambling operators:
  - (a) the New Zealand Racing Board;
  - (b) a gaming machine operator, which (for this purpose) has the same meaning as in section 12B of the Gaming Duties Act 1971;
  - (c) a casino operator which (for this purpose) has the same meaning as in section 12M of the Gaming Duties Act 1971;
  - (d) the Lotteries Commission.
- (2) To avoid doubt, sections 319 and 320 authorise an initial levy—
  - (a) that commences part-way through a financial year; and
  - (b) that is set at a rate sufficient to recover the full cost of an integrated problem gambling strategy for—
    - (i) that financial year; and
    - (ii) each of the other 2 years in the relevant 3-year period; and

- (iii) in the case of the initial levy period, the full costs of the transition to the strategy incurred in the period before the introduction of the initial levy.

### **322 Early reconsideration**

If the department responsible for the integrated problem gambling strategy considers that a significant change in the gambling environment warrants an earlier reconsideration of the strategy or the levy or the levy rates, it may initiate the process in this subpart within the 3-year period.

### **323 Collection**

- (1) The problem gambling levy is neither a tax nor a duty.
- (2) The powers of collection, recovery, and enforcement in the Gaming Duties Act 1971 and the Tax Administration Act 1994 apply to the levy as if it were a duty.
- (3) An amount of unpaid levy is recoverable in a court of competent jurisdiction as a debt due to the Crown.

### **324 Accountability**

The department responsible for the integrated problem gambling strategy must report annually to Parliament on the expenditure of funds appropriated by Parliament for the strategy against money collected by the problem gambling levy.

### **325 Problem gambling committee**

- (1) In this section, the **problem gambling committee** means the body that was approved under section 116ZJ of the Gaming and Lotteries Act 1977.
- (2) The problem gambling committee must prepare and provide the following documents to the Minister, within 3 months after the expiry of its last financial year or within a longer period if the Minister allows:
  - (a) a report on the meetings and activities of the committee during that financial year or longer period; and
  - (b) a copy of the committee's audited accounts for the committee's final year or, if the committee's final accounts span a longer period, that longer period.

- (3) The Minister must present the report and audited accounts to the House of Representatives as soon as practicable after the Minister receives them.
- (4) The problem gambling committee may agree with the department responsible for the integrated problem gambling strategy to transfer its assets, property, rights, and liabilities to that department, or may authorise that department to act on its behalf in providing any goods or services, or in managing assets or liabilities.
- (5) No gift duty is payable on any gift made under an agreement referred to in subsection (4).
- (6) Transfer of the kind referred to in subsection (4) is not a supply of goods or services for the purposes of goods and services tax.

#### Subpart 5—Minimum standards for gambling equipment

##### **326 Gambling equipment must comply with minimum standards**

- (1) The Secretary may, by notice in the *Gazette*, declare that any particular gambling equipment or class of gambling equipment must be approved by the Secretary as complying with minimum standards relevant to the equipment before it may be used under a licence granted under this Act.
- (2) It is a condition of every class 3 licence, class 4 venue licence, and casino operator's licence granted under this Act—
  - (a) that all gambling equipment used for the purposes of the licence must comply with minimum standards for the design, manufacture, and performance relevant to the equipment; and
  - (b) if the Secretary has declared under subsection (1) that gambling equipment must be approved by the Secretary as complying with minimum standards, that such an approval has been granted.
- (3) The Secretary may require a society or the holder of a casino operator's licence to provide the Secretary with written confirmation from a specified body that a particular item or model of gambling equipment complies with relevant minimum standards.

**327 Secretary may prescribe minimum standards**

- (1) The Secretary may prescribe minimum standards for the design, manufacture, and performance of any particular gambling equipment or class of gambling equipment and may at any time amend or revoke any minimum standard.
- (2) Minimum standards may, without limitation, include requirements that gambling equipment—
  - (a) has features designed to reduce the likelihood of problem gambling or other harm arising from its use;
  - (b) is capable of being monitored and controlled electronically.
- (3) Minimum standards may incorporate, by reference, all or part of a principle, statement, standard, specification, or requirement that is published by, or on behalf of, any body or person in any country.
- (4) If a principle, statement, standard, specification, or requirement that is incorporated by reference into a minimum standard is amended, the amendment does not become part of the minimum standard until it is notified, by the Secretary, in the *Gazette*.
- (5) Minimum standards prescribed by the Secretary under this section—
  - (a) are regulations for the purposes of the Regulations (Disallowance) Act 1989; but
  - (b) are not regulations for the purposes of the Acts and Regulations Publication Act 1989.

**328 Secretary must give notice of minimum standard**

- (1) The Secretary must publish a notice in the *Gazette*—
  - (a) stating that a minimum standard has been prescribed, amended, or revoked; and
  - (b) stating the particular gambling equipment or class of gambling equipment to which the standard, amendment, or revocation applies; and
  - (c) stating the date on which the standard, amendment, or revocation takes effect, which must be a date after the date on which the notice published in the *Gazette* takes effect; and
  - (d) indicating how copies of the minimum standard, amendment (including any material incorporated by

reference), or revocation may be obtained from the Secretary.

- (2) If no minimum standard exists in respect of a particular item of gambling equipment, a person may apply to the Secretary for a minimum standard to be prescribed.

#### *Transitional provision*

### **329 Transitional provision relating to gambling equipment**

- (1) Gambling equipment that was authorised for use and operating immediately before the commencement of this section must be treated as having complied with all the relevant minimum standards prescribed under section 327 until the close of a date prescribed for the purpose by the Governor-General by Order in Council.
- (2) For the purposes of subsection (1), 1 or more Orders in Council may be made appointing different dates for different purposes.

#### Subpart 6—Gambling inspectors

### **330 Secretary may appoint gambling inspectors**

The Secretary may appoint gambling inspectors, on a permanent or temporary basis, to perform the functions set out in section 332 and exercise the powers conferred by this Act.

Compare: 1977 No 84 s 133; 1990 No 62 s 80

### **331 Authority to act as gambling inspector**

- (1) The Secretary must issue a warrant of appointment to every person appointed as a gambling inspector.
- (2) A warrant of appointment must—
  - (a) be in the prescribed form; and
  - (b) bear the photograph and signature of the holder; and
  - (c) contain any other particulars that may be prescribed.
- (3) A warrant of appointment is, in the absence of evidence to the contrary, sufficient proof that the holder of the warrant may exercise the powers conferred on a gambling inspector under sections 333 to 338.
- (4) A person who ceases to be a gambling inspector must return the person's warrant of appointment.



- (5) A person who fails to comply with subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

Compare: 1977 No 84 s 134; 1990 No 62 s 82

### **332 Functions of gambling inspector**

A gambling inspector must ensure, to the extent that is reasonably practicable, compliance with this Act by carrying out the following functions:

- (a) inspecting, monitoring, and auditing, to the extent that is necessary, the conduct of gambling (including inspecting gambling equipment):
- (b) inspecting, monitoring, and auditing, to the extent that is necessary, the counting of money and chips:
- (c) conducting compliance audits of all aspects of the operations of societies, businesses operating at class 4 venues, and grant recipients, to the extent that is necessary to determine compliance with this Act:
- (d) detecting, investigating, and prosecuting offences against this Act and crimes involving dishonesty that involve or relate to gambling, whether committed by a licensed gambling operator or any other person:
- (e) liaising and co-operating with other enforcement agencies:
- (f) investigating complaints from members of the public about the conduct of gambling:
- (g) reporting to the Gambling Commission on any matter requested by the Gambling Commission:
- (h) reporting to the Secretary on any matters relating to the gambling inspector's functions.

### **333 Power of gambling inspector to require information or documents**

- (1) If a gambling inspector considers it necessary or desirable for the purposes of carrying out his or her functions and exercising his or her powers under this Act, the inspector may by notice served on any person, require the person—
- (a) to provide to the inspector, within the time and in the manner specified in the notice, any information or class of information specified in the notice; or

- (b) to produce to the inspector, or to any person specified in the notice as acting on behalf of the inspector, any document or class of documents specified in the notice.
- (2) A person required to provide information under subsection (1) must provide the information as promptly as is reasonable in the circumstances.
- (3) A person (other than a licence holder) is not required to provide any information, or to produce any documents, if the supply of the information or documents would or could tend to incriminate the person.
- (4) Before the inspector requires a person (other than a licence holder) to provide any information, or to produce any documents, the person must be informed of the right specified in subsection (3).

### **334 Power of gambling inspector to enter and demand information**

- (1) A gambling inspector may, for the purpose of carrying out his or her functions, enter, at all reasonable times, and remain at a place (not being a private residence)—
  - (a) to which a venue licence applies, or at which a gambling inspector has reasonable grounds to believe that gambling has been, or is being, conducted; or
  - (b) where the holder, or the former holder, of an operator's licence or a licensed promoter's licence has a registered office or keeps records that relate to the operation of gambling by the holder, or former holder, of the licence.
- (2) A gambling inspector must not enter a place under subsection (1) at any time that the place is not open to the public unless—
  - (a) the entry occurs with the knowledge of the owner or occupier of the place; or
  - (b) the inspector is accompanied by the owner or occupier of the place, or a representative, agent, or employee of the owner or occupier.
- (3) During an inspection, a gambling inspector may—
  - (a) require the production of, and examine, any books, accounts, records, tickets, or other documents (including electronic records or documents), or machine or equipment that relates to, or is used in, gambling; and

- (b) inspect any gambling equipment found on the premises to ensure that it conforms with minimum standards as required by section 326; and
  - (c) disable and seal any gambling equipment that the gambling inspector has reasonable grounds to believe does not conform with minimum standards, is faulty, or has been tampered with; and
  - (d) demand from the occupier of the place any other information that the gambling inspector may reasonably require for the purpose of the inspection; and
  - (e) take copies of the information referred to in paragraphs (a) and (d), or require that the information be forwarded to the inspector's place of business.
- (4) A gambling inspector who exercises powers under this section must show his or her warrant of appointment to any person at the place who may be interested in, or affected by, the exercise of those powers.
- (5) A person (other than a licence holder) is not required to answer a question asked by an inspector under this section if the answer would or could tend to incriminate the person.
- (6) Before an inspector requires a person (other than a licence holder) to answer a question, the person must be informed of the right specified in subsection (5).

Compare: 1977 No 84 s 135; 1990 No 62 s 86

### **335 Power of gambling inspector to seize equipment in casino venue**

- (1) A gambling inspector may, while in a casino venue, seize any gambling equipment, device, or thing if the inspector has reasonable grounds to believe it will be evidence of the commission of an offence against sections 351 to 353.
- (2) A gambling inspector may exercise the power set out in subsection (1) only after he or she has given the person from whom the gambling equipment, device, or thing is proposed to be seized the opportunity to surrender the item to the inspector.
- (3) When exercising the power of seizure set out in subsection (1), a gambling inspector may use such force as is reasonable in the circumstances.

- (4) To avoid doubt, subsection (1) does not authorise a gambling inspector to search any person.
- (5) A gambling inspector who exercises powers under this section must show his or her warrant of appointment to any person at the casino who may be interested in, or affected by, the exercise of those powers.

Compare: 1990 No 62 s 87

### **336 Power of gambling inspector to seize equipment in public place**

- (1) A gambling inspector may, while in a public place, seize any gambling equipment, device, or thing if the inspector has reasonable grounds to believe it will be evidence of an offence.
- (2) A gambling inspector may exercise the power set out in subsection (1) only after he or she has given the person from whom the gambling equipment, device, or thing is proposed to be seized the opportunity to surrender the item to the inspector.
- (3) When exercising the power set out in subsection (1), the gambling inspector may use such force as is reasonable in the circumstances.
- (4) To avoid doubt, subsection (1) does not authorise a gambling inspector to search any person.
- (5) A gambling inspector who exercises powers under this section must show his or her warrant of appointment to any person at the place who may be interested in, or affected by, the exercise of those powers.
- (6) In this section, **offence** means—
  - (a) an offence against this Act; or
  - (b) a crime involving dishonesty that involves or relates to gambling.

### **337 Return of equipment seized under section 335 or section 336**

- (1) A gambling inspector must, if practicable, serve notice on the person from whom any gambling equipment, device, or thing has been seized under section 335(1) or section 336(1), or who has surrendered any item to the inspector in accordance with those sections, setting out particulars of the equipment,

device, or thing and the date on which it was taken into the inspector's possession.

- (2) The person on whom notice is served may, after 48 hours after the notice is served, apply to the District Court for an order directing that the inspector return any gambling equipment, device, or thing specified in the order to the person.

Compare: 1990 No 62 ss 88–89

### **338 Other powers of gambling inspectors**

A gambling inspector may—

- (a) apply to the Secretary for the suspension or cancellation of a certificate of approval under section 166;
- (b) issue an infringement notice to any person under section 357.

### **339 Functions and powers of police**

Every member of the police—

- (a) may perform the functions of a gambling inspector under section 332; and
- (b) has and may exercise the powers of a gambling inspector under sections 333 to 338.

Compare: 1990 No 62 s 81

## *Search warrants*

### **340 Search warrants**

- (1) A gambling inspector or member of the police may apply for a search warrant to search a place or thing.
- (2) An application must be made in writing and on oath to a District Court Judge, Justice, Community Magistrate, or Registrar (not being a member of the police).
- (3) The Judge, Justice, Magistrate, or Registrar may issue a search warrant to a gambling inspector or a member of the police if there are reasonable grounds for believing that—
  - (a) an offence has been, or is being, committed at the place or involving the thing;
  - (b) there is in, on, over, or under the place or thing, any thing that is evidence of an offence.
- (4) In this section and sections 341 and 344, **offence** means—
  - (a) an offence against this Act; or

- (b) a crime involving dishonesty that involves or relates to gambling.

Compare: 1977 No 84 s 117

### **341 Form and content of search warrant**

- (1) A search warrant must be in the prescribed form and must contain the following particulars:
  - (a) the place or thing that may be searched;
  - (b) the offence or offences in respect of which the warrant is issued;
  - (c) a description of the kind of property or thing that may be seized;
  - (d) the period during which the warrant may be executed, being a period not exceeding 14 days from the date of issue;
  - (e) any special conditions set out in the warrant.
- (2) A search warrant must be directed generally to every gambling inspector and every member of the police.

Compare: 1993 No 94 s 110

### **342 Powers conferred by search warrant**

- (1) A search warrant may be executed by a gambling inspector or a member of the police.
- (2) Subject to any special conditions specified in the warrant under section 341(1)(e), a search warrant may authorise the person executing the warrant—
  - (a) to enter and search the place or thing specified in the warrant at any time by day or night; and
  - (b) to use the assistance that is reasonable in the circumstances to enter and search the place or thing; and
  - (c) to use the force that is reasonable in the circumstances to gain entry and to break open any thing in, on, over, or under the place or thing searched; and
  - (d) to search any person found in or at the place; and
  - (e) to search for and seize any property or thing referred to in section 341(1)(c).
- (3) A person who is called to assist to execute a search warrant may exercise the powers described in subsection (2)(c) and (e).

- (4) The power to enter and search a place or thing under a search warrant may be exercised once only.

Compare: 1977 No 84 s 117(2); 1990 No 62 s 87; 1993 No 94 s 111

### **343 Requirements when executing search warrant**

- (1) A gambling inspector or member of the police who executes a search warrant must carry the warrant with him or her, and produce it for inspection, along with evidence of his or her identity,—
- (a) on first entering the place specified in the warrant, to the person appearing to be in charge of the place; and
  - (b) whenever subsequently required to do so at the place specified in the warrant, by any other person appearing to be in charge of the place or any part of the place.
- (2) If the owner or occupier of the place is not present at the time the search warrant is executed, the gambling inspector or member of the police must leave in a prominent location at the place a written statement that includes the following information:
- (a) the time and date of the search; and
  - (b) the name of the gambling inspector or member of the police who executed the search; and
  - (c) the address of the office of the gambling inspector or the police station to which enquiries should be made.
- (3) If any thing is seized in the execution of a search warrant, the gambling inspector or member of the police executing the warrant must leave in a prominent location at the place, or deliver or send by registered mail to the owner or occupier within 10 working days after the search, a written inventory of all things seized.

Compare: 1999 No 93 s 96(1)–(3)

### **344 Police may arrest persons found at place**

A member of the police who is executing, or assisting in the execution of, a search warrant at a place may, without further warrant, arrest any person found at the place if he or she has reasonable grounds to believe that the person is committing, or has committed, an offence.

Compare: 1977 No 84 s 118

**345 Disposal of things seized under search warrant**

- (1) In any proceedings for an offence relating to any thing seized under warrant, the court may order, either at the trial or hearing or on an application, that the thing be delivered to the person appearing to the court to be entitled to it, or that it be otherwise disposed of in any manner that the court thinks fit.
- (2) A gambling inspector or member of the police may, at any time, unless an order has been made under subsection (1), return the thing to the person from whom it was seized, or apply to a District Court Judge for an order for its disposal.
- (3) On any such application, the District Court Judge may make any order that a court may make under subsection (1).
- (4) If proceedings for an offence relating to the thing are not brought within 3 months of its seizure, any person claiming to be entitled to the thing may, after the expiry of that period, apply to a District Court Judge for an order that it be delivered to him or her.
- (5) On any such application, the District Court Judge may—
  - (a) adjourn the application, on any terms that he or she thinks fit, for proceedings to be brought; or
  - (b) make any order that a court may make under subsection (1).

*Other matters***346 Obstructing gambling inspector**

- (1) Every person commits an offence who—
  - (a) intentionally obstructs or attempts to obstruct a gambling inspector from entering or remaining at a place referred to in section 334(1) in the execution of his or her duty; or
  - (b) refuses, without reasonable excuse, to provide any information or produce any documents that a gambling inspector has required under section 333(1); or
  - (c) refuses, except on the grounds of self-incrimination, to provide the information that a gambling inspector has demanded from the person under section 334(3); or
  - (d) otherwise intentionally obstructs or attempts to obstruct a gambling inspector in the execution of a power or duty.



- (2) Every person who commits an offence against subsection (1) is liable on summary conviction,—
- (a) in the case of an individual, to a fine not exceeding \$2,000;
  - (b) in the case of a holder of a class 3 operator's licence, class 4 operator's licence, or casino licence, to a fine not exceeding \$5,000.

Compare: 1990 No 62 s 109

**347 Restriction on class 4 gambling by certain persons**

- (1) No person referred to in subsection (2) may participate in class 4 gambling—
- (a) except in the performance of his or her duty; and
  - (b) only to the extent necessary for the performance of his or her duty.
- (2) The persons are—
- (a) a member of the Gambling Commission;
  - (b) the Secretary;
  - (c) a gambling inspector;
  - (d) an employee or class of employee of the Department specified by the Secretary.
- (3) A person who fails to comply with this section,—
- (a) in the case of a person specified in subsection (2)(a) or (b), commits an offence and is liable on summary conviction to a fine not exceeding \$5,000; and
  - (b) in the case of a person specified in subsection (2)(c) or (d), must be treated as having breached the code of conduct (if any) issued under section 57 of the State Sector Act 1988.

**348 Restriction on gambling in casino by certain persons**

- (1) No person referred to in subsection (2) may gamble in a casino—
- (a) except in the performance of his or her duty; and
  - (b) only to the extent necessary for the performance of his or her duty.
- (2) The persons are—
- (a) a member of the Gambling Commission;
  - (b) the Secretary;
  - (c) a gambling inspector;

- (d) an employee or class of employee of the Department specified by the Secretary.
- (3) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- Compare: 1990 No 62 s 108

**349 Gambling inspectors and police not criminally liable**

- (1) No gambling inspector or member of the police may be charged with an offence against this Act for an act done in the performance of his or her duty.
- (2) Subsection (1) applies despite the fact that, but for this section, the act would have otherwise constituted an offence.
- Compare: 1977 No 84 s 125

*Transitional provision*

**350 Transitional provision relating to gambling inspectors**

Every person who, immediately before the commencement of this section, held office as an inspector under the Gaming and Lotteries Act 1977 or the Casino Control Act 1990 must be treated as having been appointed as a gambling inspector under section 330.

**Subpart 7—Offences relating to gambling in casinos**

**351 Cheating**

- (1) Every person commits the offence of cheating in a casino venue who knowingly contravenes the rules of a game with the intention of obtaining a pecuniary advantage (whether directly or indirectly) on the person's own behalf or on behalf of any other person.
- (2) Every person who commits an offence against subsection (1) is liable on summary conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding \$20,000.
- Compare: 1990 No 62 s 102

**352 Being in possession of equipment for cheating**

- (1) Every person commits an offence who has in the person's possession any equipment, instrument, or device that is capable of being used for cheating in a casino venue in circumstances that show an intention to use the equipment, instrument, or device to cheat.
- (2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$10,000.

Compare: 1990 No 62 s 103

**353 Counterfeit chips**

- (1) Every person commits an offence who—
  - (a) counterfeits a chip resembling an authorised chip with the intention to use it in gambling in a casino venue as an authorised chip; or
  - (b) has in the person's possession or control anything intended to be used to counterfeit a chip resembling an authorised chip in circumstances that show an intention to use it for the purpose of counterfeiting chips.
- (2) Every person commits an offence who—
  - (a) supplies a counterfeit chip to another person knowing it to be counterfeit; or
  - (b) passes, or attempts to pass, a counterfeit chip to another person knowing it to be counterfeit.
- (3) Every person commits an offence who has in the person's possession or under the person's control a counterfeit chip knowing it to be counterfeit and intending to pass it to another person as authorised.
- (4) Every person who commits an offence—
  - (a) against subsection (1) is liable on conviction on indictment to a term of imprisonment not exceeding 3 years or to a fine not exceeding \$100,000;
  - (b) against subsection (2) or subsection (3) is liable on conviction on indictment to a term of imprisonment not exceeding 1 year or to a fine not exceeding \$50,000.

Compare: 1990 No 62 s 104

### Subpart 8—Proceedings, evidence, etc

#### **354 Relationship of this Part with Part 2**

To avoid doubt, this Part does not prevent the Secretary from exercising his or her powers under Part 2.

#### **355 Proceedings for offences**

- (1) Except as provided in section 353, every offence against this Act is punishable on summary conviction.
- (2) Despite section 14 of the Summary Proceedings Act 1957, an information relating to an offence against this Act or against any regulations made under this Act may be laid at any time within 2 years after the time when the matter of the information arose.
- (3) No prosecution for an offence against this Act may be commenced except on the information of a gambling inspector or member of the police.

Compare: 1977 No 84 ss 119, 120; 1990 No 62 s 113

#### *Infringement offences*

#### **356 Infringement offences**

- (1) If a person is alleged to have committed an infringement offence, the person may either—
  - (a) be prosecuted summarily for the alleged offence; or
  - (b) be served with an infringement notice as provided in section 357.
- (2) Despite anything in section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to lay an information is not necessary where an infringement offence is proceeded with summarily.

#### **357 Issue of infringement notice**

- (1) If a gambling inspector or member of the police has reasonable grounds to believe that a person is committing, or has committed, an infringement offence, the gambling inspector or member of the police may issue an infringement notice to the person for the offence.
- (2) An infringement notice may be served—
  - (a) by delivering it, or a copy of it, personally to the person alleged to have committed the infringement offence; or

- (b) by sending it, or a copy of it, by post addressed to the person at his or her last known place of residence or business or postal address.
- (3) For the purposes of the Summary Proceedings Act 1957, an infringement notice that is sent to a person by post under subsection (2)(b) is served on the person when it would have been delivered in the ordinary course of post.
- (4) An infringement notice must be in the prescribed form and must contain the following particulars:
  - (a) the details of the alleged infringement offence that are necessary to sufficiently inform the person of the time, place, and nature of the alleged offence; and
  - (b) the amount of the infringement fee specified for the offence; and
  - (c) the address of the place at which the infringement fee may be paid; and
  - (d) the time by which the infringement fee must be paid; and
  - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
  - (f) a statement of the right of the person served with the notice to request a court hearing; and
  - (g) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a court hearing; and
  - (h) any other particulars as may be prescribed.
- (5) Different forms of infringement notices may be prescribed for different kinds of infringement offences.

### **358 Reminder notices**

- (1) A reminder notice may be in the form prescribed by regulations made under this Act or by regulations made under the Summary Proceedings Act 1957, but if the form is prescribed under this Act the reminder notice must contain the information set out in section 357(4).
- (2) Different forms of reminder notices may be prescribed for different kinds of infringement offences.

**359 Infringement fees**

- (1) The infringement fee payable for an infringement offence is the fee prescribed for the offence by Schedule 6 or by regulations made under section 360.
- (2) All infringement fees received by the Secretary under this Act or recovered under the Summary Proceedings Act 1957 must be paid into the Crown Bank Account.

**360 Regulations relating to infringement offences**

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

- (a) prescribing infringement offences for the breach of any regulations or game rules made under this Act:
- (b) setting the maximum infringement fee for infringement offences specified by or prescribed under this Act, which,—
  - (i) in the case of a licence holder, may not exceed \$50,000:
  - (ii) in the case of an individual, may not exceed \$10,000:
- (c) prescribing the forms that must be used for issuing an infringement notice.

*Evidence***361 Evidence of gambling**

- (1) The presence of gambling equipment at a place is, in the absence of evidence to the contrary, sufficient proof that the owner or occupier of the place was conducting illegal gambling in contravention of section 19(1).
- (2) In proceedings for an illegal gambling offence, it is not necessary for the prosecution to prove—
  - (a) that the person actually used the gambling equipment in the presence of a gambling inspector or a member of the police; or
  - (b) that the person found using the gambling equipment had paid for the right to participate.

Compare: 1977 No 84 s 121

**362 Evidence of bookmaking**

- (1) The presence of a document or thing designed, adapted, or intended for use in bookmaking at a place is, in the absence of evidence to the contrary, sufficient proof—
  - (a) that the owner or occupier of the place was causing or permitting the place to be used for bookmaking in contravention of section 19(1);
  - (b) that the owner and occupier was conducting bookmaking in contravention of section 19(1).
- (2) In proceedings for a bookmaking offence, it is not necessary for the prosecution to prove that a bet was made in the presence of a gambling inspector or member of the police.
- (3) However, it is sufficient evidence, unless the contrary is proved, that the person was carrying on the business of bookmaking if it is shown that the person—
  - (a) has offered, directly or indirectly, to receive or negotiate any bet or to lay any odds; or
  - (b) has issued or has been party to the issue of any card, circular, advertisement, or other document (including in electronic form) indicating or purporting to indicate, in any manner, where or with whom or at what odds a bet may be made.

Compare: 1977 No 84 s 122

**363 Forfeiture**

- (1) If a person is convicted of an offence against this Act, the Court may, in addition to any other penalty that may be imposed, order that any equipment, thing, document, or money used in the commission of the offence be forfeited to the Crown.
- (2) Section 199(4) to (6) of the Summary Proceedings Act 1957 applies with any necessary modifications to an order made under subsection (1).
- (3) Subject to subsection (2),—
  - (a) all equipment, things, or documents forfeited to the Crown must be delivered to the Secretary, and may be destroyed or otherwise disposed of in the manner that the Secretary thinks fit;
  - (b) all money forfeited to the Crown must be paid into the Crown Bank Account.

Compare: 1977 No 84 s 123; 1990 No 62 s 114

### Subpart 9—Other matters

#### 364 Notification

- (1) A notice or notification of a matter must be in writing and must be—
  - (a) given personally; or
  - (b) sent by post addressed to the person for whom it is intended at the person's last known postal, business, or residential address; or
  - (c) transmitted by fax addressed to the person for whom it is intended at the person's fax number; or
  - (d) sent or transmitted by any other means (including electronic means) acceptable to the person for whom it is intended.
- (2) For a notice referred to in any of sections 44(1), 46(2), 59(1), 61(2), 75(1), 77(2), 140(2), 142(2), 143(2), 145(2), 150(2), 162(2), 166(6), 171(2), 207(1), 209(2), 333(1), or 337(1),—
  - (a) the date of the notice must be the date on which it is given, posted, or transmitted; and
  - (b) the notice is presumed to be given, posted, or transmitted on the date of the notice unless the person for whom it is intended raises evidence to the contrary.
- (3) Subsection (1) does not apply to—
  - (a) notification of any matter in the *Gazette*; or
  - (b) public notification; or
  - (c) a notification to the Secretary under section 89(1); or
  - (d) the issuing of an infringement notice under section 357; or
  - (e) notification of a public meeting under clause 2(4) of Schedule 3.

#### 365 Information gathering

- (1) The Secretary may require information from the following persons for research, and policy analysis and development, associated with the purposes of this Act:
  - (a) holders of class 3 operator's licences, class 4 operators' licences, class 4 venue licences, casino licences, licensed promoters' licences, and certificates of approval; and
  - (b) any other person who conducts gambling authorised by this Act or the Racing Act 2003.



- (2) The Secretary may require the information necessary to calculate, administer, and collect levies and fees under this Act from the following persons:
  - (a) holders of venue licences and operators' licences; and
  - (b) any other person who conducts gambling authorised by this Act or the Racing Act 2003.
- (3) A person who is required by the Secretary to provide information under subsection (1) or subsection (2) must provide that information within 10 working days, or any longer time frame that the Secretary may allow.

### **366 Secretary may issue standard forms**

The Secretary may issue standard forms for the purposes of this Act and must make copies of those forms available free of charge upon request.

### **367 Power to make game rules**

- (1) The Secretary may make rules and amend or revoke rules made—
  - (a) for playing or participating in particular games; and
  - (b) for the systems, processes, information, and documentation to be associated with particular games.
- (2) The Secretary must publish a notice in the *Gazette* containing the following information, as soon as reasonably practicable after making, amending, or revoking game rules under subsection (1):
  - (a) a statement that game rules have been made, amended, or revoked;
  - (b) the date on which the game rule, amendment, or revocation takes effect;
  - (c) a statement that a copy of the game rules, amendment, or revocation may be obtained from the Secretary, and how it may be obtained.
- (3) A rule, amendment, or revocation made under subsection (1) does not take effect before the notice in the *Gazette* about that rule, amendment, or revocation, required by subsection (2), takes effect.
- (4) The Secretary may require the holder of a class 4 operator's licence or a casino operator's licence to display game rules prominently at a place used for gambling or on or near to gambling equipment.

- (5) If no game rules exist in respect of a particular gambling activity, a person may apply to the Secretary for the approval of game rules in relation to the activity.
- (6) An application under subsection (5) must include a full description of the gambling activity.
- (7) A game rule made, amended, or revoked under subsection (1)—
  - (a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989; but
  - (b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

**368 Regulations relating to forms of gambling and gambling equipment**

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

- (a) declaring any act, behaviour, or transaction not to be gambling for the purposes of this Act:
- (b) declaring any machine, device, or thing to be or not to be gambling equipment for the purposes of this Act:
- (c) declaring any device, or type of device, to be or not to be a gaming machine for the purposes of this Act:
- (d) declaring a form of gambling to be or not to be a New Zealand lottery.

**369 Regulations relating to forms**

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

- (a) prescribing forms for the purposes of this Act and prescribing the information to be provided by applicants:
- (b) prescribing procedures for the service and publication of documents:
- (c) prescribing the form of a certificate of approval:
- (d) prescribing the form of a warrant of appointment of a gambling inspector under section 331, and a search warrant under section 341.

**370 Regulations relating to fees**

- (1) The Governor-General may, by Order in Council, make regulations prescribing the fees or charges payable to enable the

- recovery of the direct and indirect costs of the Secretary, the Gambling Commission, or the Police in—
- (a) publicising and informing people about this Act:
  - (b) administering this Act:
  - (c) enforcing and monitoring compliance with this Act:
  - (d) doing anything else authorised or required by this Act.
- (2) Examples of the costs that may be recovered include—
- (a) the cost of processing applications:
  - (b) the costs of issuing licences or certificates:
  - (c) the cost of funding the gambling inspectorate:
  - (d) the costs of providing, operating, and maintaining systems, databases, or other processes in connection with the administration of this Act:
  - (e) the costs of services provided by third parties (for example, credit checking agencies).
- (3) Regulations made under subsection (1) may specify—
- (a) the matters in respect of which fees or charges are payable:
  - (b) the amounts of fees or charges or the method or rates by which they are to be assessed:
  - (c) the person or classes of person liable for payment of the fees or charges:
  - (d) gambling equipment or classes of gambling equipment or particular games or classes of game to which the fees or charges apply:
  - (e) the circumstances in which penalty for default in payment is payable or the payment of the whole or a part of those fees or charges may be remitted or waived:
  - (f) the manner in which the fees or charges are to be paid.

### **371 Other regulations**

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- (a) prescribing systems for the management and operation of gambling and gambling equipment:
  - (b) auditing, reporting on, and monitoring persons who conduct or promote gambling:
  - (c) requiring specified persons to retain documents and information relating to gambling and gambling equipment:

- (d) specifying the time frame within which, and the accounts into which, the profits from class 4 gambling must be banked:
  - (e) prescribing systems or processes to ensure compliance with this Act:
  - (f) prescribing classes of persons who are casino employees who require a certificate of approval:
  - (g) prohibiting junkets or specifying the terms on which the holder of a casino licence may associate with a junket organiser or may participate in a junket:
  - (h) prescribing offences for unlawfully organising a junket or associating with a junket organiser or a junket:
  - (i) providing for any other matters that are contemplated by, or necessary for giving full effect to, this Act and its due administration.
- (2) Regulations under subsection (1) may apply—
- (a) to particular persons or classes of person:
  - (b) to a particular place or class of place:
  - (c) to particular gambling equipment or classes of gambling equipment:
  - (d) to particular games or classes of game.

### **372 Consultation before regulation**

- (1) This section applies to regulations proposed to be made under sections 17, 21, 114, 116, 172, 219, 301, 313 to 316, 327, 360, 367, 368, 370, and 371.
- (2) Before making regulations under those sections, the Minister must consult, or be satisfied that the Secretary has consulted, in accordance with subsections (3) and (4).
- (3) The Minister or the Secretary must consult with the persons or organisations that appear to the Minister or the Secretary to be representative of the interests of persons likely to be substantially affected by the relevant regulations.
- (4) The process for consultation should, to the extent practicable in the circumstances, include—
- (a) giving adequate and appropriate notice of the intention to make the regulations; and
  - (b) giving a reasonable opportunity for interested persons to make submissions; and
  - (c) adequate and appropriate consideration of submissions.

- (5) A failure to comply with this section does not affect the validity of regulations made.

**373 Amendments to Casino Control Act 1990 and Gaming and Lotteries Act 1977**

The Casino Control Act 1990 and the Gaming and Lotteries Act 1977 are amended in the manner set out in schedule 7.

**374 Amendments to other enactments**

The Acts specified in Schedules 8 and 9 are amended in the manner set out in those schedules.

**375 Repeals and revocations**

- (1) The following Acts are repealed:
- (a) Casino Control Act 1990 (1990 No 62);
  - (b) Gaming and Lotteries Act 1977 (1977 No 84).
- (2) The Instant Kiwi (Prize Competition) Rules 1989 (SR 1989/261) are revoked.

**376 Savings**

- (1) Despite section 375(1), the following continue in force, with all necessary modifications as if they were made under this Act:
- (a) all regulations made under the previous gaming Acts currently in force;
  - (b) all game rules made under section 63 of the Casino Control Act 1990 currently in force;
  - (c) all rules made by the New Zealand Lotteries Commission under section 90 of the Gaming and Lotteries Act 1977, except the rules specified in section 375(2).
- (2) Until all of subpart 4 of Part 2 is in force, both the Gaming and Lotteries Act 1977 and those relevant parts of this Act in force apply to existing gaming machine licences.
- (3) However, if there is any inconsistency between the provisions of this Act and any provisions of the Gaming and Lotteries Act 1977, this Act prevails.

**377 Decisions during transitional period**

- (1) This section applies to applications made under the previous gaming Acts to the Minister, the Secretary, the Casino Control Authority, or a court.
  - (2) An application that is decided in the period from the date on which this Act receives the Royal assent until the date of repeal of the previous gaming Acts must be based on both the previous gaming Acts and any relevant parts of this Act currently in force.
  - (3) An application that is received but not decided before the repeal of the previous gaming Acts (except an application concerning class 4 gambling) must be based solely on this Act.
  - (4) An application concerning class 4 gambling that is decided in the period from the date of repeal of the previous gaming Acts and until the date on which all of subpart 4 of Part 2 of this Act comes into force must be based on the previous gaming Acts and the relevant parts of this Act then in force.
  - (5) An application concerning class 4 gambling that is not decided before all of subpart 4 of Part 2 comes into force must be decided solely on the basis of this Act.
  - (6) For the purposes of subsections (2) and (4), if there is any inconsistency between the provisions of this Act and any provisions of the previous gaming Acts, this Act prevails.
-

**Schedule 1**

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**Conditions that may attach to casino licence**

- 1 Initiatives to encourage responsible gambling.
- 2 Initiatives to minimise harm.
- 3 Arrangements for any contributions to the community.
- 4 Control on the placement of banking facilities available to patrons in a casino.
- 5 Requirements for security and surveillance in a casino.
- 6 The nature and standard of the casino facilities.
- 7 The designation of areas within a casino where casino gambling may be conducted.
- 8 The approval of, and procedures for the approval of, alterations to floor plans and the placement of gaming tables and gambling equipment.
- 9 Conditions regulating the number of gaming machines and table games, and the ratio of one to the other, and player space and positions at tables and machines.
- 10 The standard, type, installation, and operation of electronic monitoring systems and other surveillance equipment, including closed-circuit television systems.
- 11 The standard of facilities to be provided for gambling inspectors and the police.
- 12 Procedures, forms, and, if appropriate, formulas for, or with respect to,—
  - (a) hold percentages and calculations of hold percentages; and
  - (b) revenue drop; and

- (c) expense and overhead schedules; and
  - (d) complementary services; and
  - (e) salary arrangements; and
  - (f) personnel practices.
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**Schedule 2**  
**Minimum operating standards**

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- 1 Accounting procedures, standard forms, and definition of terms to be utilised in gambling.
- 2 Job description, the system of organising personnel, and the chain of command authority, for example, to establish diversity of responsibility among employees engaged in casino operations and the identification of primary and secondary supervisory positions for areas of responsibility (other areas must not be so extensive as to be impractical for an individual to supervise effectively).
- 3 The conduct of games.
- 4 Within a cashier's cage, the receipt, storage, and disbursement of chips and cash, and the redemption of chips and the recording of all transactions pertaining to gambling.
- 5 The collection and security of money at the gambling tables and other places where gambling is conducted.
- 6 The transfer of chips to and from the gaming tables and other places where games are conducted and to and from a cashier's cage.
- 7 The transfer of money from the gaming tables and other places where games are conducted to other areas for counting.
- 8 The transfer of money or chips to and from a gambling area.
- 9 The counting and recording of revenue.
- 10 The transfer of money to and from a bank.
- 11 The security, storage, and recording of chips utilised in the gambling operations.

- 12 The maintenance, security, and storage of gambling equipment.
  - 13 The payment and recording of winnings if winnings are paid by cash or cheque.
  - 14 The issue of chip purchase vouchers and the record of those transactions.
  - 15 The establishment and use of deposit advance accounts.
  - 16 The use and maintenance of security and surveillance facilities, including closed-circuit television systems.
  - 17 The utilisation of security personnel.
  - 18 The control of keys for use in gambling operations.
  - 19 The design and manufacture of chips.
-

## Schedule 3 Gambling Commission

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### 1 Application

This schedule applies to the Gambling Commission and to a division of the Gambling Commission.

### 2 Meetings

- (1) The Gambling Commission may regulate its procedure as it thinks fit.
- (2) Gambling Commission meetings are held at times and places decided by the Chief Gambling Commissioner.
- (3) The Gambling Commission may meet in private or in public as the Chief Gambling Commissioner decides.
- (4) The Gambling Commission must give notice of public meetings of the Gambling Commission to persons likely to be interested in the subject matter of the meeting, in whatever way it thinks appropriate.
- (5) At all Gambling Commission meetings (but not at meetings of a division of the Gambling Commission) the quorum necessary for the transaction of business is 3 Gambling Commissioners, including the Chief Gambling Commissioner or a Gambling Commissioner acting for the Chief Gambling Commissioner.
- (6) The Chief Gambling Commissioner presides at all meetings of the Gambling Commission at which the Chief Gambling Commissioner is present.
- (7) If the Chief Gambling Commissioner is not at a meeting, the Gambling Commissioners present must appoint 1 of their number to be the chairperson of that meeting.

### 3 Voting

- (1) All questions arising at a meeting of the Gambling Commission must be decided by a majority of votes of the Gambling Commissioners present and voting.
- (2) The Chief Gambling Commissioner (or any chairperson appointed in the absence of the Chief Gambling Commissioner) has a deliberative vote and, if there is equal voting, also has a casting vote.

- (3) A resolution in writing signed, or assented to by telegraphic or electronic means, by all Gambling Commissioners is valid and effective as if it had been passed at a meeting of the Gambling Commission duly called and constituted.
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## Schedule 4 New Zealand Lotteries Commission

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### Part 1 Key provisions about governance and operation of Lotteries Commission

#### *Board members' role*

#### **1 Board members' role**

- (1) The board is the governing body of the Lotteries Commission, with the authority, in the Commission's name, to exercise the powers and perform the functions of the Commission.
- (2) All decisions relating to the operation of the Lotteries Commission must be made by or under the authority of the board.
- (3) The board has all the powers necessary for carrying out its role.
- (4) Unless the context otherwise requires, references in this Act to the board, in relation to the Lotteries Commission, are references to board members of the Commission who number not less than the required quorum acting together as a board.

#### **2 Accountability of board members to Minister**

Board members are accountable to the Minister, in accordance with this Act, for performing their duties and responsibilities as board members.

#### *Minister's role*

#### **3 Minister's role**

The Minister has the following functions, powers, and duties in relation to the Lotteries Commission:

- (a) appoints and removes board members in accordance with Part 2 of this schedule:
- (b) has the power to direct the Commission under section 242:
- (c) may review the operations or performance of the Commission at any time (without limiting any other power of review in an enactment):
- (d) may request information from the Commission under section 45B of the Public Finance Act 1989 (whether for a review or otherwise):

Part 1—*continued*

- (e) is involved in preparing the Commission's statement of intent and must present that statement of intent, and the Commission's annual report, to the House of Representatives in accordance with Part V of the Public Finance Act 1989;
- (f) has the other functions, powers, and duties given to him or her by this Act or any other enactment.

**4 Minister accountable to House of Representatives**

The Minister is accountable, in accordance with this Act and the Public Finance Act 1989, to the House of Representatives for the exercise and performance of the functions, powers, and duties given to him or her in relation to the Lotteries Commission.

*Operation of Lotteries Commission—collective board duties***5 Must act consistently with functions and statement of intent**

The board must ensure that the Lotteries Commission acts in a manner consistent with its functions and with its current statement of intent.

**6 Functions must be performed efficiently, effectively, and consistently with spirit of service to public**

The board must ensure that the Lotteries Commission performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public.

**7 Operation must be in financially responsible manner**

The board must ensure that the Lotteries Commission operates in a financially responsible manner and, for this purpose, that it—

- (a) endeavours to maintain its long-term financial viability; and
- (b) endeavours to act as a successful going concern; and
- (c) prudently manages its assets and liabilities.

Part 1—*continued***8 Government policy and directions must be complied with**

The board must ensure that the Lotteries Commission, in performing its functions, complies with section 242.

**9 Acquisition of shares or interests in companies**

The board must ensure that the Lotteries Commission acquires a share or interest in, or forms, a company only—

- (a) in accordance with the procedures contained in its statement of intent; or
- (b) with the written consent of the Minister.

**10 Subsidiaries**

The board must ensure, to the extent of its powers, that each of its subsidiaries (if any)—

- (a) does not do anything that the Lotteries Commission itself does not have power to do; and
- (b) acts consistently with the Lotteries Commission's principal objectives; and
- (c) exercises its powers only for the purpose of performing, or assisting the Lotteries Commission to perform, the Commission's functions; and
- (d) in doing anything, acts consistently with the obligations and restrictions that would apply to the Commission in doing that thing; and
- (e) acts consistently with the current statement of intent of the Commission (to the extent it relates to the subsidiary); and
- (f) performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public; and
- (g) operates in a financially responsible manner; and
- (h) complies with any direction under section 242 (to the extent it relates to the subsidiary); and
- (i) pays remuneration or other benefits to directors of the subsidiary only in the same way the Commission may do; and
- (j) does not pay directors of the subsidiary any compensation or other payment or benefit, on any basis, for removal from office; and

Part 1—*continued*

- (k) complies with the requirements as to chief executives and other employees set out in clauses 37 and 38 in the same way as the Commission must do.

*Further duties of board members***11 Duty to not contravene this Act**

A board member must not contravene, or agree to the Lotteries Commission acting in a manner that contravenes, this Act.

**12 Duty to act in good faith and not at expense of Lotteries Commission's interests**

A board member must, when acting as a board member, act in good faith and not pursue his or her own interests at the expense of the Lotteries Commission's interests.

**13 Duty to exercise reasonable care, diligence, and skill**

A board member must, when acting as a board member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—

- (a) the nature of the Lotteries Commission; and
- (b) the nature of the action; and
- (c) the position of the board member and the nature of the responsibilities undertaken by him or her.

**14 Use and disclosure of information**

- (1) A board member who has information in his or her capacity as a board member that would not otherwise be available to him or her must not disclose that information to any person, or make use of or act on that information, except—

- (a) for the purposes of the Lotteries Commission; or
- (b) as required or permitted by law; or
- (c) in accordance with subclause (2); or
- (d) in complying with the requirements for board members to disclose interests.

- (2) A board member may disclose, make use of, or act on the information if—

- (a) the board member is first authorised to do so by the board; and



Part 1—*continued*

- (b) the disclosure, use, or act in question will not, or will not be likely to, prejudice the Lotteries Commission.

**15 Principles of good conduct for board members**

A board member must, when acting as a board member, act with honesty and integrity.

*Reliance on information and advice***16 When board members may rely on certain information and advice**

- (1) A board member, when acting as a board member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
  - (a) an employee of the Lotteries Commission whom the board member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
  - (b) a professional adviser or expert in relation to matters that the board member believes on reasonable grounds to be within the person's professional or expert competence;
  - (c) any other board member, or a committee of the board on which the board member did not serve, in relation to matters within the board member's or committee's designated authority.
- (2) A board member, when acting as a board member, may rely on reports, statements, financial data, and other information supplied by the Crown.
- (3) Subclauses (1) and (2) apply to a board member only if the board member—
  - (a) acts in good faith; and
  - (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
  - (c) has no knowledge that the reliance is unwarranted.

Part 1—*continued**Conflict of interest provisions***17 Meaning of interested**

- (1) A person (**person A**) is **interested** in a transaction of, or other matter relating to, another person (**person B**) if, and only if, person A—
- (a) is a party to, or will or may derive a material financial benefit from, the transaction or matter; or
  - (b) has a material financial interest in another party to the transaction or in a person to whom the matter relates; or
  - (c) is a director, officer, board member, or trustee of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
  - (d) is the parent, child, or spouse of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
  - (e) is otherwise directly or indirectly materially interested in the transaction or matter; or
  - (f) is interested (within the meaning of this provision) in a subsidiary of person B.
- (2) However, person A is not interested in a transaction or other matter merely because—
- (a) he or she is a board member, director, or an officer of a wholly-owned subsidiary of person B; or
  - (b) he or she has an interest in a transaction or matter undertaken in the ordinary course of business of person B and that is not a matter on which the board of person B would ordinarily make a decision.

**18 Obligation to disclose interest**

- (1) A board member who is interested in a matter relating to the Lotteries Commission must disclose the interest in accordance with clause 19 as soon as practicable after the board member becomes aware that he or she is interested.
- (2) A general notice of an interest in a matter relating to the Lotteries Commission, or in a matter that may in future relate to the Commission, that is disclosed in accordance with clause 19 is a standing disclosure of that interest for the purposes of this section.

Part 1—*continued*

- (3) A standing disclosure ceases to have effect if the nature, monetary value, or extent of the interest materially increases above that disclosed in the general notice.
- (4) A failure by a board member to comply with this clause does not affect the validity of any act, transition, agreement, instrument, resolution, or other thing.

**19 Method of disclosure of interest**

- (1) The board member must disclose the details of the interest listed in subclause (2) in an interests register kept by the Lotteries Commission and to—
  - (a) the presiding member or, if there is no presiding member, the alternate or acting presiding member; or
  - (b) if there is no person holding an office referred to in paragraph (a), the Minister; or
  - (c) if the person holding the office referred to in paragraph (a) is interested in the matter, the Minister.
- (2) The details are—
  - (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - (b) the nature and extent of the interest (if the monetary value cannot be quantified).

**20 Consequences of interest**

- (1) A board member who is interested in a matter relating to the Lotteries Commission—
  - (a) must not vote or take part in any deliberation or decision of the board or any board committee relating to the matter; and
  - (b) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the board or board committee during which a deliberation or decision relating to the matter occurs or is made.
- (2) However, the Minister may, by written notice to the board, permit 1 or more board members, or board members with a specified class of interest, to do anything otherwise prohibited by this clause.
- (3) The permission may state conditions that the board member must comply with.

Part 1—*continued*

- (4) The Minister may amend or revoke the permission in the same way as it may be given.

*Delegation***21 Ability to delegate**

- (1) The board may delegate any of the functions and powers of the Lotteries Commission or the board, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons:
- (a) a board member;
  - (b) an employee;
  - (c) a committee established by resolution of the board that includes at least 1 board member;
  - (d) any other person or persons approved by the Minister.
- (2) This clause does not apply to—
- (a) this power of delegation (except as provided in clause 22(1)(b)); or
  - (b) any power to borrow money conferred by section 260; or
  - (c) the power to make, alter, or rescind rules conferred by section 243, or by clause 56 of this schedule.

**22 Effect of delegation**

- (1) If any functions or powers of the Lotteries Commission or board are delegated, the delegate—
- (a) may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the Lotteries Commission or the board; and
  - (b) may delegate the function or power only if approved by the board, either generally or in any particular case.
- (2) A delegate who purports to perform a function or exercise a power under a delegation is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.
- (3) A delegation—
- (a) may be revoked at will by resolution of the board and written notice to the delegate; but

Part 1—*continued*

- (b) does not prevent the Lotteries Commission or the board from performing the function or exercising the power.

*Effect of non-compliance with board duties***23 Effect of non-compliance with board duties**

- (1) The duties governing the operation of the Lotteries Commission given to the board in clauses 5 to 10 are collective duties and the other duties given to board members by this Act are individual duties.
- (2) If the board does not comply with any of its collective duties, that breach of duty justifies all or any of the board members being removed from office.
- (3) However, subclause (2) does not apply to a board member if—
  - (a) he or she did not know and could not reasonably be expected to know that the duty was to be or was being breached; or
  - (b) he or she took all reasonable steps to prevent the duty being breached.
- (4) If a board member does not comply with his or her individual duties, that breach of duty justifies the board member being removed from office.
- (5) This provision does not limit any other ground for removing a board member from office.
- (6) The collective and individual duties do not provide any other ground of action.

*Annual report***24 Annual report**

- (1) As soon as practicable after the end of each financial year, the Lotteries Commission must furnish to the Minister a report on its operations for that financial year.
- (2) The report must include the matters referred to in clause 44.
- (3) The Minister must present a copy of the report to the House of Representatives in accordance with section 44A of the Public Finance Act 1989.

Part 2  
Board members, committees, and employees

*Appointment, removal, and conditions of membership  
of board*

**25 Method of appointment**

- (1) A board member is appointed by written notice to the board member (with a copy to the Lotteries Commission).
- (2) The notice of appointment must—
  - (a) state the date on which the appointment takes effect; and
  - (b) be published by the Minister in the *Gazette* as soon as practicable after being given.

**26 Requirements before appointment**

- (1) Before a person is appointed as a board member, the person must—
  - (a) consent in writing to being a board member; and
  - (b) certify in writing that he or she is not disqualified from being a board member; and
  - (c) disclose to the Minister the nature and extent (including monetary value if quantifiable) of all interests or potential interests that the person has at that time in matters relating to the Lotteries Commission.
- (2) A person is **potentially interested** in a transaction of, or other matter relating to, the Lotteries Commission if he or she has an interest in a transaction of, or other matter relating to, a person who is likely to be materially affected by decisions of the Commission or who is likely to have material dealings with the Commission.

**27 Qualifications of board members**

- (1) A natural person who is not disqualified by subclause (2) may be a board member.
- (2) The following persons are disqualified from being a board member:
  - (a) a person who is an undischarged bankrupt;
  - (b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under section 382, section 383, or section 385 of the Companies Act 1993:

Part 2—*continued*

- (c) a person who is subject to a property order made under section 10, section 11, section 12, section 30, or section 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act:
- (d) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon or served the sentence or otherwise suffered the penalty imposed on the person:
- (e) a person who has failed to disclose his or her interests and potential interests as required by clause 26.

**28 Term of appointment**

- (1) A board member—
  - (a) holds office for 3 years or for any shorter term stated in the notice of appointment; but
  - (b) continues in office despite the expiry of his or her term of office until—
    - (i) the board member is reappointed; or
    - (ii) the board member's successor is appointed; or
    - (iii) the Minister informs the board member by written notice (with a copy to the Lotteries Commission) that the board member is not to be reappointed and no successor is to be appointed at that time.
- (2) Subclause (1) does not apply if the board member ceases to hold office under this Act or any other enactment.
- (3) A board member may be reappointed.

**29 Validity of acts**

- The acts of a person as a board member are valid even if—
- (a) the persons's appointment was defective; or
  - (b) the person is not qualified to be a board member.

Part 2—*continued***30 Alternate members**

- (1) The Minister may, on the basis of the matters specified in section 240, appoint as alternate members of the board persons who may act as the alternate of a member of the board in accordance with this clause.
- (2) An alternate member holds office for the term specified by the Minister in his or her appointment, not exceeding 3 years, and may be reappointed.
- (3) If the presiding member of the board is satisfied that any other member is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of office, the presiding member may designate an alternate member to act in the place of the incapacitated member during his or her incapacity.
- (4) If the Minister is satisfied that the presiding member of the board is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of office, the Minister may designate a member or alternate member of the board to act as the alternate of the presiding member during his or her incapacity.
- (5) An alternate member designated under subclause (3) or subclause (4) is deemed to be a member of the board for the purposes of the performance or exercise of any function, duty, or power of a member of the board under this Act, and, unless the context otherwise requires, references in this schedule to a member include references to an alternate member.
- (6) No designation of an alternate member, no act done by him or her as an alternate member, and no act done by the Lotteries Commission or the board while any alternate member is acting in the place of a member may in any proceedings be questioned on the ground that the occasion for his or her designation or appointment had not arisen or had ceased.

**31 Committees**

- (1) The board may appoint, alter, discharge, and reconstitute committees, consisting of the number of persons that it thinks fit, to—
  - (a) perform and exercise any of the board's functions and powers that are delegated to them under clause 21; and



Part 2—*continued*

- (b) advise the board on the matters relating to those functions and powers that are referred to them by the board.
- (2) A person may be appointed to be a member of a committee whether or not the person is a member of the board.
- (3) Subject to this Act and to the rules of the board made under clause 56 and to any directions given by the board, a committee may regulate its own procedure.

**32 Resignation**

- (1) A board member may resign from office by written notice to the Minister (with a copy to the Lotteries Commission) signed by the board member.
- (2) The resignation is effective on receipt by the Minister of the notice, or at any later time specified in the notice.

**33 Removal from office**

The Minister may, at any time and for any reason that in the Minister's opinion justifies the removal, remove a board member from office by written notice to the board member (with a copy to the Lotteries Commission).

**34 No compensation for ceasing to hold office**

A board member is not entitled to any compensation or other payment or benefit, on any basis, for removal from or loss of office.

**35 Board members ceasing to hold office**

A board member ceases to hold office if he or she—

- (a) resigns in accordance with this Act; or
- (b) is removed from office in accordance with this Act; or
- (c) becomes disqualified from being a board member under this Act; or
- (d) otherwise ceases to hold office in accordance with any enactment.

**36 Board members' remuneration and allowances**

- (1) A board member, and any member of a committee of the board, is entitled to receive, from the funds of the Lotteries Commission, remuneration and other benefits for services as a

Part 2—*continued*

board member or committee member at a rate and of a kind determined by the Minister.

- (2) In addition to those benefits, a board member or committee member is entitled to receive, from the funds of the Lotteries Commission, reasonable and actual allowances for travelling and other expenses relating to the performance of his or her duties and responsibilities as a board member or committee member.

*Employees***37 Lotteries Commission to be good employer**

- (1) The Lotteries Commission must, if it employs employees,—
- (a) operate a personnel policy that complies with the principle of being a good employer; and
  - (b) report on its compliance with that policy (including its equal employment opportunities programme) in its annual report.
- (2) For the purposes of this clause, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
- (a) good and safe working conditions; and
  - (b) an equal employment opportunities programme; and
  - (c) the impartial selection of suitably qualified persons for appointment; and
  - (d) recognition of—
    - (i) the aims and aspirations of Māori; and
    - (ii) the employment requirements of Māori; and
    - (iii) the need for involvement of Māori as employees of the Lotteries Commission; and
  - (e) opportunities for the enhancement of the abilities of individual employees; and
  - (f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
  - (g) recognition of the employment requirements of women; and
  - (h) recognition of the employment requirements of persons with disabilities.

Part 2—*continued*

- (3) For the purposes of this clause, an **equal employment opportunities programme** means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

**38 Chief executive and other employees**

- (1) The Lotteries Commission may—
- (a) employ a chief executive and any other employees that are necessary for the efficient performance and exercise of its functions and powers, including the promotion, organisation, and conduct of any New Zealand lottery by the Commission under section 238; and
  - (b) engage under contract for services any person who, in its opinion, possesses particular knowledge or training or is otherwise able to provide special assistance to the Commission in connection with the performance and exercise of its functions and powers.
- (2) The chief executive is to be appointed on the terms and conditions determined by the board of the Lotteries Commission.
- (3) The board must not agree to the terms and conditions of employment for a chief executive, or employees, or to an amendment of those terms and conditions, without—
- (a) consulting the State Services Commissioner; and
  - (b) if the proposed terms and conditions of employment for the chief executive, or the amendment of those terms and conditions, do not comply with any guidance issued by the State Services Commissioner, consulting the Minister.
- (4) The Board must have regard to any recommendations that the Commissioner and (if applicable) the Minister makes to it within a reasonable time of being consulted.
- (5) The Lotteries Commission may, out of its funds, subsidise any fund or scheme for the purpose of providing superannuation or retiring allowances for its employees.

Part 2—*continued**Protection from liability of board members, committee members, and employees***39 Protection for board members, committee members, and employees from liabilities of Lotteries Commission**

A board member or committee member or employee of the Lotteries Commission is not liable for any liability of the Commission by reason only of being a board member or committee member or employee.

**40 Immunity of board members, committee members, and employees from civil liability to third parties**

- (1) A board member or committee member or employee of the Lotteries Commission is not liable to any person (other than the Commission) for any act or omission by him or her, in the performance or intended performance of the Commission's functions, unless done in bad faith.
- (2) The Lotteries Commission is liable for any act or omission for which, but for this clause, a board member, committee member, or employee would have been liable to a person.

**41 Indemnity for board members, committee members, and employees for costs from civil and criminal proceedings**

The Lotteries Commission may indemnify a board member or committee member or employee for costs incurred by him or her in a proceeding—

- (a) that relates to acts or omissions by him or her in good faith in the performance or intended performance of the Commission's functions; and
- (b) in which judgment is given in his or her favour, in which he or she is acquitted, or that is discontinued.

**42 Insurance for board members, committee members, and employees**

The Lotteries Commission may effect insurance for a board member or committee member or employee in relation to—

- (a) liability (other than criminal liability) for any act or omission in the performance or intended performance of the Commission's functions; and
- (b) costs incurred in any proceedings relating to that liability or in any criminal proceedings.

Part 2—*continued***43 Definitions for protections from liability**

In clauses 39 to 42,—

**board member** includes a former board member

**committee member** includes a former committee member

**effect insurance** includes pay, whether directly or indirectly, the costs of the insurance

**employee** includes a former employee

**indemnify** includes relieve or excuse from liability, whether before or after the liability arises.

*Disclosure of remuneration, etc***44 Matters relating to remuneration, etc, to be included in annual report**

The report furnished to the Minister under clause 24 must include the following information in respect of the year to which it relates:

- (a) the total value of remuneration and other benefits received by each member of the board, and by each member of a committee of the board who is not a board member:
- (b) the number of employees who received remuneration and other benefits in their capacity as employees (other than compensation or other benefits referred to in paragraph (c)) the total value of which exceeds \$100,000 per year, and the number of those employees in brackets of \$10,000:
- (c) the total value of compensation or other benefits received by persons who ceased to be employees during the year, in relation to the cessation of employment, and the number of persons who received a share of that total.

*General***45 Board members, committee members, and employees are officials**

Board members, committee members, and employees of the Lotteries Commission are officials for the purposes of sections 105 and 105A of the Crimes Act 1961.

Part 2—*continued***46 Application of Government Superannuation Fund Act 1956 to board members and employees**

- (1) No person is, by reason only of that person's appointment as a board member of, or employment by, the Lotteries Commission, deemed to be employed in the Government service for the purposes of the Government Superannuation Fund Act 1956.
- (2) Despite anything in this Act, a person who, immediately before becoming an employee of the Lotteries Commission, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is to be treated for the purposes of that Act as being employed in the Government service so long as he or she continues to be an employee of the Commission, and—
  - (a) that Act applies to the person in all respects as if service as that employee were Government service; and
  - (b) for the purposes of that Act, the Commission is the controlling authority in relation to the person.

Part 3  
Administration**47 Method of contracting**

- (1) A contract or other enforceable obligation may be entered into by the Lotteries Commission as provided in this clause.
- (2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of the Lotteries Commission in writing, signed under the name of the Lotteries Commission, by—
  - (a) 2 or more of its board members; or
  - (b) 1 or more attorneys appointed by the Commission in accordance with this Part.
- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of the Lotteries Commission in writing by a person acting under the Commission's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of the Lotteries Commission in writing or orally by a person acting under the Commission's express or implied authority.

Part 3—*continued*

- (5) This clause applies to a contract or other obligation—
- (a) whether or not that obligation was entered into in New Zealand; and
  - (b) whether or not the law governing that obligation is the law of New Zealand.

**48 Attorney**

- (1) The Lotteries Commission may, by an instrument in writing executed as a deed, appoint a person as its attorney either generally or in relation to a specified matter.
- (2) An act of the attorney in accordance with the instrument binds the Lotteries Commission.

**49 Presumptions and saving of certain transactions**

- (1) The validity or enforceability of any deed, agreement, right, or obligation entered into, conferred on, or incurred by the Lotteries Commission is not affected by a failure of the Crown, the Minister, the Lotteries Commission, or its board to comply with any provision of this Act.
- (2) A person purporting to execute any documentation on behalf of the Lotteries Commission under any authority is, in the absence of proof to the contrary, presumed to be acting in accordance with that authority.

Part 4  
Board procedure*Presiding member of board***50 Appointment**

- (1) The responsible Minister may appoint 1 of the board members as the presiding member of the board by written notice to the board member (with a copy to the board).
- (2) The notice of appointment must state the date on which the appointment takes effect.

**51 Term of appointment**

- The presiding member holds that office until he or she—
- (a) resigns from that office; or
  - (b) is removed from it by the Minister; or

Part 4—*continued*

- (c) ceases to hold office as a board member.

**52 Resignation**

- (1) The presiding member may, without resigning as a board member, resign from that office by written notice to the Minister (with a copy to the board).
- (2) The notice of resignation must state the date on which the resignation takes effect.

**53 Removal**

- (1) The Minister may remove the presiding member from that office by written notice to the person (with a copy to the board).
- (2) The notice of removal must state the date on which the removal takes effect.

*Procedure of board***54 Procedure generally**

Except as otherwise provided in this Act, the board members may regulate their own procedure.

**55 Meetings**

- (1) Subject to this clause, the presiding member of the board convenes any meetings of the board that the presiding member thinks necessary to perform or exercise the functions and powers of the Lotteries Commission under this Act.
- (2) The presiding member determines the times and places of meetings.
- (3) A special meeting of the board may at any time be convened by the presiding member. The presiding member must call a special meeting whenever required to do so in writing by 2 or more members of the board.
- (4) At least 7 clear days' notice in writing of each meeting, and of the business to be transacted at the meeting, must be given to each member for the time being present in New Zealand.
- (5) The quorum for any meeting is 3 members.
- (6) The presiding member presides at each meeting of the board at which he or she is present.



Part 4—*continued*

- (7) In the absence from any meeting of the presiding member, or of an alternate presiding member designated under clause 30, the members present must elect 1 of their number to preside at the meeting.
- (8) Every question that arises at a meeting is determined by a majority of votes of the members present and voting on it.
- (9) The presiding member has a deliberative vote on each question and, in the case of an equality of votes, also has a casting vote.
- (10) A resolution that is signed, or that is assented to in writing by letter, telegram, fax, email, telex message, or other method of communication, by every member who is for the time being in New Zealand (being at least the number required for a quorum) has the same effect as a resolution passed at a meeting of the board.
- (11) Subject to this schedule and to the rules of the board made under clause 56, the board may regulate its procedure in the manner that it thinks fit.

**56 Power to make procedural rules**

- (1) The board may, by resolution, make, amend, and revoke rules not inconsistent with this Act for all or any of the following purposes:
  - (a) prescribing the procedure to be followed at any meeting of the board or of any committee of the board:
  - (b) providing for the custody of its property:
  - (c) prescribing the duties of the employees of the Lotteries Commission:
  - (d) providing for any other matters that may be reasonably necessary or expedient for duly performing and exercising its functions and powers.
- (2) Notice of every resolution proposed to be submitted to any meeting for the making, amendment, or revocation of rules under this clause must be given to every member of the board for the time being in New Zealand not less than 14 clear days before the day fixed for the meeting.

ss 273, 280(6)

**Schedule 5**  
**New Zealand Lottery Grants Board and**  
**distribution committees**

Part 1

New Zealand Lottery Grants Board

**1 Term of office of appointed members**

- (1) A member of the Board appointed under section 272(2)(d) is to be appointed for a term not exceeding 3 years, as specified by the Governor-General in the member's instrument of appointment, and may be reappointed.
- (2) Unless sooner vacating office under clause 2, a member continues in office until his or her successor is appointed, despite the expiry of the term of the member's appointment.

Compare: 1977 No 84 s 116B

**2 Extraordinary vacancies**

- (1) An appointed member of the Board may at any time be removed from office by the Governor-General for inability in performance of office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General.
- (2) An appointed member may resign from office by notice to the Governor-General.
- (3) If the office of an appointed member becomes vacant by death, resignation, or removal from office, the vacancy created must as soon as practicable be filled in the manner in which the appointment to the vacant office was originally made.
- (4) A person appointed to fill a vacancy holds office for the residue of the term for which the person's predecessor would have held office if the vacancy had not occurred.

Compare: 1977 No 84 s 116C

**3 Prime Minister and Leader of Opposition may appoint deputies**

- (1) The Prime Minister or the Leader of the Opposition may appoint any member of Parliament as an alternate member to attend meetings in his or her stead, either generally or for any particular meeting.

Part 1—*continued*

- (2) A person appointed under subclause (1) is deemed for all purposes to be a member of the Board while attending any meeting of the Board.
- (3) No appointment of a person under this clause, and no acts done by the person or by the Board while the person is a member, may in any proceedings be questioned on the ground that the occasion of the person's appointment had not arisen or had ceased.

Compare: 1977 No 84 s 116D

**4 Board's powers not affected by vacancy in membership**

The powers of the Board are not affected by any vacancy in its membership, or by any deficiency in the appointment of any member.

Compare: 1977 No 84 s 116A(3)

**5 Meetings of Board**

- (1) Meetings of the Board are to be held at the times and places that the Board appoints.
- (2) A special meeting of the Board may at any time be convened by the presiding member. The presiding member must call a special meeting whenever requested to do so in writing by 2 or more members of the Board.
- (3) At least 7 clear days' notice in writing of each meeting, and of the business to be transacted at the meeting, must be given to each member for the time being present in New Zealand.
- (4) The quorum for any meeting is 4 members.
- (5) The presiding member presides at each meeting of the Board at which he or she is present.
- (6) In the absence from any meeting of the presiding member, the members present must elect 1 of their number to preside at the meeting.
- (7) Every question that arises at a meeting is determined by a majority of votes of the members present and voting on it.
- (8) The presiding member has a deliberative vote on each question and, in the case of an equality of votes, also has a casting vote.

Part 1—*continued*

- (9) A resolution that is signed, or that is assented to in writing by letter, telegram, facsimile, email, telex message, or other method of communication, by every member who is for the time being in New Zealand (being at least the number required for a quorum) has the same effect as a resolution passed at a meeting of the Board.
- (10) Subject to this schedule and to subpart 3 of Part 3, the Board may regulate its procedure in the manner that it thinks fit.

Compare: 1977 No 84 s 116E

Part 2  
Distribution committees**6 Terms of office of members**

- (1) A member of a distribution committee is to be appointed for a term not exceeding 3 years, as specified by the Minister in the member's instrument of appointment, and may be reappointed.
- (2) Unless sooner vacating office under clause 7, a member continues in office until his or her successor is appointed, despite the expiry of the term of the member's appointment.

Compare: 1977 No 84 s 116L

**7 Extraordinary vacancies**

- (1) A member of a distribution committee may at any time be removed from office by the Minister for inability in performance of office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.
- (2) A member may resign office by notice to the Minister.
- (3) When the office of an appointed member of a distribution committee becomes vacant by death, resignation, or removal from office, that vacancy must as soon as practicable be filled in the manner in which the appointment to the vacant office was originally made.
- (4) Every person so appointed holds office for the residue of the term for which the person's predecessor would have held office if the vacancy had not occurred.

Compare: 1977 No 84 s 116M

Part 2—*continued***8 Powers not affected by vacancy in membership**

The powers of a distribution committee are not affected by any vacancy in its membership, or by any deficiency in the appointment of any member.

Compare: 1977 No 84 s 116K(6)

**9 Meetings**

- (1) Meetings of a distribution committee are to be held at the times and places that the committee appoints.
- (2) A special meeting of a distribution committee may at any time be convened by the presiding member. The presiding member must call a special meeting whenever requested to do so in writing by 2 or more members of the committee.
- (3) At least 7 clear days' notice of each meeting, and of the business to be transacted at the meeting, must be given to each member for the time being present in New Zealand.
- (4) The quorum for any meeting is a number of members that is not less than half of the membership of the committee.
- (5) The presiding member presides at each meeting of the committee at which he or she is present.
- (6) In the absence from any meeting of the presiding member, the members present must elect 1 of their number to preside at the meeting.
- (7) Every question that arises at a meeting is determined by a majority of votes of the members present and voting on it.
- (8) The presiding member has a deliberative vote on each question and, in the case of an equality of votes, also has a casting vote.
- (9) A resolution that is signed, or that is assented to in writing by letter, telegram, facsimile, email, telex message, or other method of communication, by every member who is for the time being in New Zealand (being at least the number required for a quorum) has the same effect as a resolution passed at a meeting of the committee.
- (10) Subject to this schedule and to subpart 3 of Part 3, a distribution committee may regulate its procedure in the manner that it thinks fit.

Compare: 1977 No 84 s 116N

Part 2—*continued***10 Distribution committee may delegate functions**

- (1) A distribution committee may appoint any 1 or more persons (whether or not a member of the committee) to be a subcommittee and may, in writing, delegate to a subcommittee its power to determine any application or class of applications made under section 282.
- (2) Subject to any general or special directions given or conditions or restrictions imposed by the distribution committee, the subcommittee to which the power is delegated may perform and exercise it in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.
- (3) A subcommittee that purports to act under a delegation under this clause is, in the absence of proof to the contrary, presumed to be acting within the terms of the delegation.
- (4) An appointment of a subcommittee or a delegation of power under this section—
  - (a) is revocable at will;
  - (b) does not prevent the exercise of the power by the distribution committee.
- (5) A delegation continues in force according to its tenor until it is revoked, and the appointment of a subcommittee continues in force, despite any change in the membership of the distribution committee.

Compare: 1977 No 84 s 116P

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## Schedule 6 Infringement offences

ss 4, 356–360

Provision	Description of offence	Fees (\$)
s 16	Advertising overseas gambling prohibited	\$5,000
s 82	Certain information that must be displayed at class 4 venue	\$2,500
s 83	Obligation to provide information on disposal of gaming machines	\$2,500
s 84	Prohibition on certain gaming machines in class 4 venue	\$5,000
s 104	Requirement to bank gaming machine profits	\$2,500
s 105	Requirement to bank interest, investment return, etc, on gaming machine profits	\$2,500
s 110	Publication requirements for corporate societies	\$2,500
s 117	Failure to provide information Secretary requires for investigation and audit	\$2,500
s 121	Casino branding	\$5,000
s 172(2)	Operating outside restricted hours	\$5,000
s 175	Information that must be displayed to customers in casino venue	\$2,500
s 176	Failure to provide training for employees	\$2,500
s 179	Obligation to provide information on disposal of gaming machine	\$2,500
s 180	Prohibition on certain gaming machines in casino venue	\$5,000
s 203(6)	Licensed promoter may only be employed by society as licensed promoter	\$500
s 213	Requirement of licensed promoter to render an account to a society	\$1,000
s 251(2)	Person other than broadcaster who publishes or broadcasts announced result of New Zealand lottery	\$100
s 267	Protection of name of Lotteries Commission	\$2,500
s 268	Protection of product names of Lotteries Commission	\$2,500
s 301(1)	Restriction on purchasing a ticket in an instant game or similar game by person under 18 years	\$500
s 302(1)	Restriction on class 4 gambling by person under 18 years	\$500
s 303(1)	Restriction on casino gambling by person under 20 years	\$500
s 308(5)	Requirement to display notice of policy for identifying problem gamblers	\$2,500
s 312(1)	Breach of an exclusion order issued under section 309 or section 310	\$500

s 373

**Schedule 7**  
**Amendments to Casino Control Act 1990 and**  
**Gaming and Lotteries Act 1977**

**Casino Control Act 1990** (1990 No 62)

Repeal the heading above section 27A and substitute:

*“Prohibition”.*

Repeal from the heading to section 27A the words **“Moratorium on considering applications received between 16 October 1997 and 15 October 2003”** and substitute the words **“Prohibition on considering applications received on or after 16 October 1997”**.

Repeal section 27A(1) and substitute:

“(1) Subsection (2) applies to every application for a casino premises licence received by the Authority on or after 16 October 1997.”

Repeal section 27A(3).

Omit from section 27A(4) the word “moratorium” and substitute the word “prohibition”.

Repeal section 27B.

**Gaming and Lotteries Act 1977** (1977 No 84)

Repeal section 116ZF(b).

Repeal section 116ZG(a) and substitute:

“(a) to use the amount that the committee has determined must be provided in the financial year beginning on 1 July 2003—

“(i) primarily to purchase problem gambling services; and

“(ii) secondarily to meet reasonable administrative costs of the committee; and”.

Repeal section 116ZJ(4)(c).

Repeal section 116ZJ(4)(d) and substitute:

“(d) the committee is capable of ensuring that every sector of the gaming industry represented on the committee (except societies) pays an appropriate amount towards the amount that the committee has determined will be provided in the financial year beginning on 1 July 2003 for—

“(i) the purchase of problem gambling services by the committee; and

“(ii) the reasonable administrative costs of the committee.”



**Gaming and Lotteries Act 1977** (1977 No 84)—continued

Repeal section 116ZP and substitute:

**“116ZP Transitional levy until 30 June 2004**

“(1) This section applies to—

- “(a) a society that is granted a new licence in the period beginning on 1 October 2003 and ending on 30 June 2004:
- “(b) a society whose licence is due to expire in the period beginning on 30 September 2003 and ending on 29 June 2004 that has applied for a renewal of the licence before the date on which it is due to expire:
- “(c) a society whose application for a renewal of its licence was made—
  - “(i) before 1 October 2002; and
  - “(ii) before the expiry of its existing licence; and
  - “(iii) that has not been determined at the commencement of this section.

“(2) A society to which—

- “(a) subsection (1)(a) or (c) applies must pay, for each gaming machine that is subject to its licence, the levy prescribed in Part 1 of Schedule 4,—
  - “(i) in the case of subsection (1)(a), for the month in which its licence is granted:
  - “(ii) in the case of subsection (1)(c), as if the society had been granted a new licence in the month in which the anniversary of the original commencement of its licence falls due:
- “(b) subsection (1)(b) applies must pay, for each gaming machine that is subject to its licence, the levy prescribed in Part 2 of Schedule 4 for the period in which its licence is due to expire.

“(3) The levies must be paid to the Secretary for Internal Affairs.

“(4) The levy amounts prescribed in Schedule 4 are inclusive of goods and services tax.”

Repeal section 116ZQ.

Repeal section 116ZR(2) and substitute:

“(2) Every additional levy payable under subsection (1) is the amount per gaming machine that would be payable by the society under section 116ZP(1)(a) if the application for amendment were an application for a new licence.”

**Gaming and Lotteries Act 1977** (1977 No 84)—continued

Add to the heading to section 116ZS the words “**paid under problem gambling levy regulations**”.

Insert, before section 116ZS(1), the following subsections:

“(1AAA) This section applies to a society that has paid a levy under the Gaming and Lotteries (Problem Gambling Levy) Regulations 2002 (the **regulations**).

“(1AA) Except where subsection (2) applies, payments of levy under the regulations by a society whose licence is due to expire in the period beginning on 30 June 2003 and ending on 29 September 2003 must be treated as payments for the period ending on 30 June 2004.”

Repeal section 116ZS(3).

Repeal section 116ZS(4)(b) and substitute:

“(b) within the specified period of time the licence is amended so as to reduce the number of gaming machines subject to the licence,—

a refund must be paid at the rate of \$24.75 (including GST) for each gaming machine that is no longer subject to the licence for every whole month from the time of the reduction to the earlier of either—

“(i) the date on which the licence is due to expire; or

“(ii) 30 June 2004.”

Repeal section 116ZS(5) to (7).

Insert, after section 116ZS:

**“116ZSA Refunds of levies paid under section 116ZP**

“(1) This section applies to a levy paid by a society under section 116ZP.

“(2) A refund payable under this section must be paid—

“(a) by the Department, from the trust bank account referred to in section 116ZV(1)(b); or

“(b) by the problem gaming committee, if there are insufficient funds in the trust bank account to pay the refund.

“(3) If a society has paid a levy in error, the levy must be refunded.

“(4) If a licence is amended in a way that reduces the number of gaming machines subject to the licence, a refund for each gaming machine must be paid that is equal to the amount prescribed by Part 1 of Schedule 4 as if the society’s licence had been granted in the month following the month in which the society applied for the amendment.”

**Gaming and Lotteries Act 1977** (1977 No 84)—continued

Insert, after section 116ZW:

**“116ZX Regulations revoked**

The Gaming and Lotteries (Problem Gambling Levy) Regulations 2002 (SR 2002/219) are revoked.”

Add:

s 116ZP(2)

**Schedule 4****Transitional levy until 30 June 2004****Part 1**

Levy for purposes of section 116ZP(1)(a) and (c)

<b>Month in which society's licence granted</b>	<b>Levy (\$)</b>
October 2003	411
November 2003	366
December 2003	320
January 2004	274
February 2004	229
March 2004	183
April 2004	137
May 2004	91
June 2004	46

**Part 2**

Levy for purposes of section 116ZP(1)(b)

<b>Period in which society's licence due to expire</b>	<b>Levy (\$)</b>
30 September 2003 to 30 October 2003	411
31 October 2003 to 29 November 2003	366
30 November 2003 to 30 December 2003	320
31 December 2003 to 30 January 2004	274
31 January 2004 to 28 February 2004	229
29 February 2004 to 30 March 2004	183
31 March 2004 to 29 April 2004	137
30 April 2004 to 30 May 2004	91
31 May 2004 to 29 June 2004	46

s 374

## Schedule 8 Amendments to Racing Act 2003

### Section 5(1)

Insert, in the appropriate alphabetical order:

“**Board operator** means the person supervising a Board venue

“**Board venue** means premises that are owned or leased by the Board and where the main business carried on at the premises is providing racing betting or sports betting services under this Act

“**harm** has the same meaning as in section 4(1) of the Gambling Act 2003

“**problem gambler** has the same meaning as in section 4(1) of the Gambling Act 2003

“**Secretary** means the Secretary for Internal Affairs

“**territorial authority**—

“(a) has the same meaning as in section 5(1) of the Local Government Act 2002; but

“(b) does not include the Minister of the Crown who is, for the time being, responsible for that Act

“**territorial authority consent** means consent granted by a territorial authority under section 65C

“**territorial authority district** means a district in respect of which a territorial authority is constituted”.

### Section 61

Repeal and substitute:

“61 **Use of betting systems for gaming purposes, etc**

“(1) The Board may operate a totalisator, or any other betting system for the time being authorised under this Act, for the purpose of, or in conjunction with, class 3 gambling conducted by a society that holds a licence under section 37 of the Gambling Act 2003.

“(2) The operation of a totalisator or other betting system under subsection (1) is subject to the provisions of the Gambling Act 2003, and to all the game rules and conditions of the licence that apply to the class 3 gambling for which the operation is being carried out.

**Section 61**—continued

“(3) Despite the Gambling Act 2003, the Board may pay its employees for operating, or assisting in the operation of, a totalisator or other betting system, but the payment (or any part of it) may not be charged to, or be recoverable from, the society on whose behalf the operation is carried out.

Compare: 1971 No 155 ss 99S, 99T”.

**Section 63**

Repeal and substitute:

**“63 Restrictions on betting**

- “(1) Every person commits an offence who,—
- “(a) being under 18 years, makes a bet, whether on his or her own behalf or on behalf of another person; or
  - “(b) makes a bet on behalf of any person under 18 years.
- “(2) Every member, officer, agent or employee of a racing club, or of the Board, or of an agent of the Board, commits an offence who—
- “(a) receives, registers, or takes into account a bet by a person under 18 years, whether the bet is made by that person on his or her own behalf or on behalf of any other person; or
  - “(b) permits to be received, registered, or taken into account a bet by a person under 18 years, whether the bet is made by that person on his or her own behalf or on behalf of any other person; or
  - “(c) offers or provides credit to any person if he or she knows, or ought to know, that the credit is intended to be used to make a bet.
- “(3) It is a defence to a charge under subsection (2)(a) or (b) if the defendant proves that he or she had reasonable grounds to believe the person to whom the charge relates was 18 years or over.
- “(4) Without limiting subsection (3), reasonable grounds exist for the purposes of that subsection if the defendant proves that he or she had sighted an evidence of age document of the person to whom the charge relates, indicating that the person was 18 years or over.
- “(5) Every person who commits an offence against this section is liable on summary conviction to,—

**Section 63**—continued

- “(a) in the case of an offence against subsection (1)(a), a fine not exceeding \$500:
  - “(b) in the case of an offence against subsection (1)(b), a fine not exceeding \$1000:
  - “(c) in the case of an offence against subsection (2)(a) or (b), a fine not exceeding \$5,000:
  - “(d) in the case of an offence against subsection (2)(c), a fine not exceeding \$10,000:
- “(6) In this section and section 63A,—
- “**bet** means a bet made with the Board (whether directly or through a racing club or other agent) or a racing club conducting equalisator betting
- “**evidence of age document** has the same meaning as in section 2A of the Sale of Liquor Act 1989.

Compare: 1971 No 155 s 100(1)–(3), (7)

**“63A Power to require particulars**

- “(1) If any member of the police, or any member, officer, agent or employee of a racing club, or of the Board, or of an agent of the Board (as the case may be) has reasonable grounds to believe that a person has committed, is committing, or is attempting to commit an offence under section 63(1)(a), he or she may demand from that person an evidence of age document verifying his or her age.
- “(2) Every person commits an offence who, being required under subsection (1) to give information regarding his or her age, fails to give that information, or supplies any false information relating to his or her age.
- “(3) Every person who commits an offence against subsection (2) is liable on summary conviction to a fine not exceeding \$500.

Compare: 1971 No 155 s 100(4), (5)”.

**New Parts 6A and 6B**

Insert, after section 65:

**“Part 6A**  
**“Territorial authority consent**

**“65A When territorial authority consent is required**

A territorial authority consent is required if the Board proposes to establish a Board venue.

**New Parts 6A and 6B—continued****“65B Application for territorial authority consent**

- “(1) An application for a territorial authority consent must be made to the territorial authority for the district in which the Board venue will be located.
- “(2) The application must be accompanied by the information required by the territorial authority to enable it to consider the application properly.

**“65C Considering and determining application for territorial authority consent**

- “(1) A territorial authority must—
- “(a) consider an application for a territorial authority consent in accordance with its Board venue policy; and
  - “(b) either grant or refuse a consent.
- “(2) The territorial authority must notify the Board and the Secretary of its determination within 30 working days after the later of—
- “(a) the date of receipt of the application; or
  - “(b) the date that it adopts a Board venue policy.
- “(3) A territorial authority must not consider an application for territorial authority consent before it has a Board venue policy.

**“65D Territorial authority must adopt Board venue policy**

- “(1) A territorial authority must, within 6 months after the commencement of this section, adopt a policy on Board venues.
- “(2) In adopting a policy, the territorial authority must have regard to the social impact of gambling within the territorial authority district.
- “(3) The policy must specify whether or not new Board venues may be established in the territorial authority district and, if so, where they may be located.
- “(4) In determining its policy on whether Board venues may be established in the territorial district and where any Board venues may be located, the territorial authority may have regard to any relevant matters, including—
- “(a) the characteristics of the district and parts of the district:

**New Parts 6A and 6B—continued**

- “(b) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities:
- “(c) the cumulative effects of additional opportunities for gambling in the district.

**“65E Adoption and review of Board venue policy**

- “(1) A policy on Board venues under section 65D must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002 and, for the purpose of subsection (1)(e) of that section, the territorial authority must give notice of the proposed policy, in a manner that the territorial authority considers appropriate to—
  - “(a) the Board; and
  - “(b) organisations representing Māori in the territorial authority district.
- “(2) A policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.
- “(3) Subsection (1)(b) does not affect the ability of a territorial authority to take similar action in respect of any other population group.
- “(4) A territorial authority must, as soon as practicable after adopting, amending, or replacing a policy on Board venues, provide a copy of the policy to the Board and the Secretary.
- “(5) A territorial authority must complete a review of a policy within 3 years after the policy is adopted and then within 3 years after that review and each subsequent review is completed.
- “(6) A policy does not cease to have effect because it is due for review or being reviewed.

**“Part 6B****“Harm prevention and minimisation****“65F Regulations relating to harm prevention and minimisation**

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



**New Parts 6A and 6B—continued**

- “(a) prescribing requirements for the design, layout, and furnishing of a Board venue:
- “(b) prescribing the information or messages that the Board must provide to persons about racing betting and sports betting at the venue:
- “(c) prescribing codes requiring the advertising of racing betting, sports betting, racecourses, and Board venues to be responsible:
- “(d) requiring the Board to provide problem gambling awareness training for employees involved in supervising racing betting and sports betting at Board venues:
- “(e) prescribing systems or processes ancillary to racing betting and sports betting, including the availability of automatic teller machines at a Board venue:
- “(f) prescribing any other requirements relating to harm prevention or minimisation.

**“65G Regulations relating to admission to and exclusion from Board venues**

- “(1) The Governor-General may, by Order in Council, make regulations controlling or prohibiting admission to Board venues.
- “(2) The regulations may exclude from a Board venue any specified class or classes of person, either absolutely or subject to any special conditions that may be specified in the regulations.
- “(3) Every person who enters, or remains on, a Board venue in breach of a regulation made under this section must be treated as having committed an offence under section 4 of the Trespass Act 1980 and is liable accordingly.

**“65H Regulations relating to exclusion of problem gamblers from Board venues and racecourses**

- “(1) The Governor-General may, by Order in Council, make regulations—
  - “(a) prescribing 1 or more procedures to enable a Board operator or racing club to identify problem gamblers:
  - “(b) prescribing procedures for prohibiting identified problem gamblers from entering a Board venue or racecourse:

**New Parts 6A and 6B—continued**

- “(c) prescribing procedures for removing a person who a Board operator or racing club has reasonable grounds to believe is a problem gambler:
  - “(d) ensuring that access to Board venues and racecourses by identified problem gamblers is restricted:
  - “(e) prescribing 1 or more procedures that must be completed by a problem gambler as a condition of re-entry to a Board venue or racecourse.
- “(2) Regulations made under subsection (1) must—
- “(a) specify the grounds on which a person may be identified as a problem gambler:
  - “(b) set out the steps to be taken to identify a person as a problem gambler:
  - “(c) prescribe the persons (including the qualifications of those persons) who are authorised to perform specific functions in relation to identifying and excluding problem gamblers:
  - “(d) set out the rights, including the rights of appeal against specified decisions, of a person who is subject to the procedure.

**“65I Board must pay problem gambling levy**

The Board must pay a problem gambling levy in accordance with sections 317 to 325 of the Gambling Act 2003 and regulations made under that Act.

**“65J Board must provide information to Secretary**

- “(1) The Secretary may require information from the Board for research, and policy analysis and development, associated with the purposes of the Gambling Act 2003.
  - “(2) The Secretary may require from the Board any information necessary to calculate, administer, and collect the problem gambling levy payable under section 65I.
  - “(3) If required by the Secretary to provide information under subsection (1) or (2), the Board must provide that information within 10 working days or any longer time that the Secretary may allow.”
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## Schedule 9 Amendments to other Acts

s 374

### **Arts Council of New Zealand Toi Aotearoa Act 1994**

(1994 No 19)

Omit from clause 17(b) of the First Schedule the words “under section 116J(1)(a) of the Gaming and Lotteries Act 1977 (as substituted by section 3 of the Gaming and Lotteries Amendment Act 1987)” and substitute the words “section 279 of the Gambling Act 2003”.

### **Boxing and Wrestling Act 1981** (1981 No 28)

Omit from section 2(2) the expression “Gaming and Lotteries Act 1977” and substitute the expression “Gambling Act 2003”.

### **Building Societies Act 1965** (1965 No 22)

Omit from section 31A(7) the expression “Gaming and Lotteries Act 1977” and substitute the expression “Gambling Act 2003”.

Omit from section 113L and the heading to that section the expression “Gaming and Lotteries Act 1977” wherever it occurs and substitute in each case the expression “Gambling Act 2003”.

### **Conservation Act 1987** (1987 No 65)

Omit from the definition of **sale** in section 2(1) the words “raffle, lottery, or other game of chance” and substitute the word “gambling”.

### **Countrywide Banking Corporation Limited Act 1994**

(1994 No 1) (P)

Omit from section 11 and the heading to that section the expression “Gaming and Lotteries Act 1977” in both places where it occurs and substitute in each case the expression “Gambling Act 2003”.

### **Finance Act 1990 (No 2)** (1990 No 73)

Omit from section 9 and the heading to that section the expression “Gaming and Lotteries Act 1977” in both places where it occurs and substitute in each case the expression “Gambling Act 2003”.

### **Financial Transactions Reporting Act 1996** (1996 No 9)

Repeal paragraph (c)(ii) of the definition of **transaction** in section 2(1) and substitute:

“(ii) participation in gambling as defined in section 4(1) of the Gambling Act 2003:”.

Repeal paragraph (e) of the definition of **financial institution** in section 3(1) and substitute:

**Financial Transactions Reporting Act 1996** (1996 No 9)—  
continued

- “(e) the holder of a casino operator’s licence under the Gambling Act 2003:”.

**Fisheries Act 1996** (1996 No 88)

Repeal paragraph (a)(iv) of the definition of **sale** in section 2(1) and substitute:

- “(iv) disposal by way of gambling (as that term is defined in section 4(1) of the Gambling Act 2003); and”.

**Flags, Emblems, and Names Protection Act 1981** (1981 No 47)

Repeal the items in the Third Schedule that relate to the Gaming and Lotteries Act 1977 and substitute:

“The Gambling Act 2003: section 267—New Zealand Lotteries Commission

“The Gambling Act 2003: section 268—Golden Kiwi”.

**Gaming Duties Act 1971** (1971 No 34)

Repeal the definition of **lottery** in section 3 and substitute:

“**New Zealand lottery** has the meaning set out in section 4(1) of the Gambling Act 2003”.

Repeal the definition of **organiser** in section 3 and substitute:

“**organiser**, in relation to a New Zealand lottery, means the New Zealand Lotteries Commission continued by section 236 of the Gambling Act 2003”.

Omit from the heading to section 12A the words “**New Zealand instant games**” and substitute the words “**instant game that is New Zealand lottery**”.

Omit from section 12A the words “any New Zealand instant game” and substitute the words “an instant game that is a New Zealand lottery”.

Repeal the definition of **dutiable game** in section 12B and substitute:

“**dutiable game**—

“(a) means gambling by means of a gaming machine under the Gambling Act 2003; but

“(b) does not include casino gambling as defined in section 34 of that Act”.

**Gaming Duties Act 1971** (1971 No 34)—continued

Omit from the definition of **gaming machine** in section 12B the words “section 2 of the Gaming and Lotteries Act 1977” and substitute the words “section 4(1) of the Gambling Act 2003”.

Repeal paragraph (a) of the definition of **gaming machine operator** in section 12B and substitute:

“(a) a society licensed under the Gambling Act 2003 to conduct a dutiable game; and”.

Omit from the definition of the word **society** in section 12B the words “section 2 of the Gaming and Lotteries Act 1977” and substitute the words “section 4(1) of the Gambling Act 2003”.

Repeal the definition of **authorised game** in section 12M.

Omit from the definition of **casino** in section 12M the expression “Casino Control Act 1990” and substitute the expression “Gambling Act 2003”.

Insert, after the definition of **casino** in section 12M:

“**casino gambling** has the same meaning as in section 34 of the Gambling Act 2003”.

Repeal the definition of **casino operator** in section 12M and substitute:

“**casino operator** means a person, being the holder of either a casino operator’s licence or a casino venue licence under subpart 5 of Part 2 of the Gambling Act 2003, who is entitled to the gaming income of a casino; and includes—

“(a) the holder of a temporary authority to carry on the operation of a casino granted under section 187 of the Gambling Act 2003:

“(b) in relation to a return period and to the obligations and liabilities under sections 12N to 12Q of a person who was at any time during that period a casino operator, that person, despite that the person may have ceased during or after the return period to operate under a casino operator’s licence, casino venue licence, or a temporary authority”.

Omit from the definition of **chips** in section 12M the words “section 2 of the Casino Control Act 1990” and substitute the words “section 4(1) of the Gambling Act 2003”.

Omit from paragraph (b) of the definition of **gaming income** in section 12M the words “authorised game” and substitute the words “casino gambling”.

Repeal the definition of **play** in section 12M and substitute:

**Gaming Duties Act 1971** (1971 No 34)—continued

“**play**, in relation to casino gambling, includes participate in or commence that gambling”

Omit from section 12O(2) the expression “Casino Control Act 1990” and substitute the expression “Gambling Act 2003”.

Omit from section 14A(1) the words “Gaming and Lotteries Act 1977 or the Casino Control Act 1990” and substitute the expression “Gambling Act 2003”.

**Goods and Services Tax Act 1985** (1985 No 141)

Repeal section 5(10) to (11C) and substitute:

“(10) Despite anything in this Act, for the purposes of this Act if a person pays an amount in money to participate in gambling (including a New Zealand lottery), the amount of money paid to participate must be treated as payment for the supply of services by the person, society, licensed promoter, or organiser who under the Gambling Act 2003 conducts the gambling.

“(11) For the purposes of subsection (10)—

“(a) the terms **gambling**, **New Zealand lottery**, **licensed promoter**, and **society** have the meanings set out in section 4(1) of the Gambling Act 2003:

“(b) the term **organiser** means the New Zealand Lotteries Commission continued by section 236 of the Gambling Act 2003.

“(11B) Despite anything in this Act, for the purposes of this Act if a person pays to a casino an amount in money—

“(a) to purchase a chip or otherwise participate in gambling played or conducted in a casino venue; or

“(b) as commission for participating in gambling played or conducted in a casino venue,—

the money paid must be treated as payment for the supply of services by the holder of the casino operator’s licence.

“(11C) For the purposes of subsection (11B), the terms **casino venue**, **chip**, and **gambling** have the meanings set out in section 4(1) of the Gambling Act 2003.”

Repeal section 9(2)(e) and substitute:

“(e) if the supply is treated as having been made under section 5(10) on the date on which the first drawing or determination of a result of the gambling (including a New Zealand lottery) commences, provided that this

**Goods and Services Tax Act 1985** (1985 No 141)—continued

paragraph does not apply to an instant game that is a **New Zealand lottery** or **gambling** played by means of a gaming machine (as those terms are defined in section 4(1) of the Gambling Act 2003):”.

Repeal section 9(2)(g) and substitute:

“(g) if the supply is treated as having been made under section 5(11B) at the time a casino count takes place.”

Repeal section 10(14) to (15B) and substitute:

“(14) If a supply of services is treated as having been made under section 5(10), the consideration in money for the supply is the portion of the amount in money a person pays to participate in the gambling (including a New Zealand lottery) that represents the total proceeds (after deducting the amount of all prizes paid and payable in money) in respect of the gambling.

“(15) For the purposes of subsection (14), the terms **gambling** and **New Zealand lottery** have the meanings set out in section 4(1) of the Gambling Act 2003.

“(15A) If a supply is treated as having been made under section 5(11B), the consideration in money for the supply (less any amount paid out by the casino as winnings in respect of gambling or for the redemption of chips) must be treated—

“(a) as the amount of money (including cheques not collected) a person pays to the casino to purchase a chip or otherwise to participate in gambling played or conducted at a casino venue; or

“(b) as commission for participation in the gambling.

“(15B) For the purposes of subsection (15A), the terms **casino venue**, **chip**, and **gambling** have the meanings set out in section 4(1) of the Gambling Act 2003.”

**Income Tax Act 1994** (1994 No 164)

Repeal paragraph (i)(iii) and (iv) of the definition of **excepted financial arrangement** in section EH 14 and substitute:

“(iii) gambling, including a New Zealand lottery (as those terms are defined in section 4(1) of the Gambling Act 2003);”.

Repeal section EH 24(1)(c)(iii) and (iv), and substitute:

“(iii) gambling, including a New Zealand lottery, (as those terms are defined in section 4(1) of the Gambling Act 2003);”.

**Insurance Law Reform Act 1985** (1985 No 117)

Repeal section 7(2).

**New Zealand Film Commission Act 1978** (1978 No 61)

Omit from section 20(b) the expression “Gaming and Lotteries Act 1977” and substitute the expression “Gambling Act 2003”.

Omit from section 29 the expression “Gaming and Lotteries Act 1977” and substitute the expression “Gambling Act 2003”.

Omit from section 36(2)(a) the words “section 85 of the Gaming and Lotteries Act 1977” and substitute the words “section 245 of the Gambling Act 2003”.

**Ombudsmen Act 1975** (1975 No 9)

Repeal the item in Part II of the First Schedule that relates to The Casino Control Authority and substitute “The Gambling Commission”.

**Post Office Bank Act 1987** (1987 No 114)

Omit from section 5 and the heading to that section the expression “Gaming and Lotteries Act 1977” in both places where it occurs and substitute in each case the expression “Gambling Act 2003”.

**Privacy Act 1993** (1993 No 28)

Add to Part 1 of the Second Schedule:

Gambling Act 2003

section 204

**Public Finance Act 1989** (1989 No 44)

Repeal the item in the Fourth Schedule that relates to the “Casino Control Authority”.

**Securities Markets Act 1988** (1988 No 234)

Omit from section 40(1) the expression “Gaming and Lotteries Act 1977” and substitute the expression “Gambling Act 2003”.

**Smoke-free Environments Act 1990** (1990 No 108)

Repeal the definition of **casino** in section 2 and substitute:

“**casino** means a casino for which a casino venue licence is in force under section 122 or section 137 of the Gambling Act 2003”.

Repeal the definition of **casino operator’s licence** in section 2 and substitute:

“**casino operator’s licence** means a licence granted under section 130 of the Gambling Act 2003”.

Repeal the definition of **gaming** in section 2 and substitute:



**Smoke-free Environments Act 1990** (1990 No 108)—continued

“**gambling** has the meaning set out in section 4(1) of the Gambling Act 2003”.

Repeal the definition of **gaming area** in section 2 and substitute:

“**gambling area**, in relation to a casino venue, means the area of the venue in which gambling is conducted”.

Omit from section 13A the word “gaming” wherever it occurs and substitute in each case the word “gambling”.

**Sport and Recreation New Zealand Act 2002** (2002 No 38)

Omit from section 44(b) the words “the Gaming and Lotteries Act 1977” and substitute the words “section 279 of the Gambling Act 2003”.

**Summary Proceedings Act 1957** (1957 No 87)

Insert, in the definition of **infringement notice** in section 2(1), after paragraph (fa) the third time it appears:

“(fb) section 357 of the Gambling Act 2003; or”.

Repeal the item in Part II of the First Schedule that relates to the Casino Control Act 1990 and insert, in its appropriate alphabetical order:

The Gambling Act 2003	351	Cheating
	353	Offences involving counterfeit chips

**Tax Administration Act 1994** (1994 No 166)

Insert, after section 81(4)(e):

“(ea) communicating to any officer, being an employee of the Department of Internal Affairs, any information, being information—

“(i) which that officer is authorised by the Department to receive; and

“(ii) which the Commissioner considers is not undesirable to disclose and is essential to enable that officer to carry out any duty lawfully conferred on the officer relating to the determination of the problem gambling levy rate:”.

Insert in section 87(5)(a)(i), after the expression “(e),” the expression “(ea),”.

**Trans-Tasman Mutual Recognition Act 1997** (1997 No 60)

Repeal the item in Schedule 2 that relates to the Gaming and Lotteries Act 1977 and substitute “Gambling Act 2003, to the extent

**Trans-Tasman Mutual Recognition Act 1997** (1997 No 60)—  
continued

that it deals with any requirement described in section 10(2) applicable to the sale of a gaming machine within the meaning of that Act”.

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**Legislative history**

19 February 2002	Introduction (Bill 200–1)
26 February 2002	First reading and referral to Government Administration Committee
19 November 2002	Reported from Government Administration Committee (Bill 200–2)
12 August 2003	Second reading
9 September 2003	Committee of the whole House (Bill 200–3)
11 September 2003	Third reading
18 September 2003	Royal assent

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This Act is administered in the Department of Internal Affairs.

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