

# Gambits

THE DEPARTMENT OF INTERNAL AFFAIRS

Te Tari Taiwhenua

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## Goals for the Gaming and Censorship Group

*By General Manager, Keith Manch*

I have now spent four months as the General Manager of the Gaming and Censorship Group (GCR) in the Department of Internal Affairs. I have met many people in the gaming sector, been involved in a wide range of issues and attended various meetings and conferences where I have been exposed to many views about how the Department regulates the sector and how it might do so.

The gaming sector is in a period of significant change. We all know about the Responsible Gambling Bill, and everyone in the sector is preparing for it in the way they see fit.

Within GCR, the combination of our existing knowledge and experience, with many new people who bring different ideas and approaches, and the new legislation is a powerful mix. Our challenge is to shape what we do in a way that supports the Government's goals in the gaming sector, and gives effect to the Bill as it is passed into law.

The high level goals that guide our work are to ensure that the gaming sector operates with integrity and that gaming activities are fair and lawful. This includes focusing on ensuring maximum returns to the community from the



non-casino gaming sector and ensuring that any harm associated with problem gambling is minimised.

As the regulatory agency for the gaming sector, GCR must be strong but fair, focusing on significant problems and getting them sorted out. We need to find the right mix of

information, education and enforcement activities, and where possible, work with people in the gaming sector, to ensure that goals are met.

We have a role in helping to ensure there is an understanding of, and an ability to comply with, the law and licence conditions. We must also take timely and appropriate action where there is non-compliance. That action should be proportionate to the size of the problem and without fear or favour.

I haven't met anyone who doesn't share the goals of a non-casino gaming sector that operates with integrity, supports the community and minimises harm. Significantly, all the people I have met, inside and outside the Department, have expressed a positive approach to working through the challenges that we all face in achieving these goals.

# Concerns over reporting of grants from gaming machines

*In past years, it has often been difficult to reconcile the amount of grants societies published publicly, with the amounts they reported in their applications to renew gaming machine licences.*

Each financial year societies must make public a statement of their authorised purpose and all the grants they made that year (licence conditions 46 for clubs and 55 for public sites). The amounts stated in these statements must match those reported in the societies' applications to renew their licences.

There are no exceptions. All clubs and societies operating from public sites must publish this information.

Last year the Department of Internal Affairs asked all societies to submit their published list of grants, and it soon became obvious that not all societies were publishing lists of grants that matched their financial year. This year, the licence condition will be strictly enforced.

Societies must ensure that they report only those grants that have actually been made, not those allocated but not yet paid out. This is because licences have been issued on the basis that at least 33% of total gaming machine profit is actually distributed to authorised purposes.

Societies that operate from public sites must publish their list of grants in an appropriate newspaper. This must include:

- *the name of the recipients*
- *the amount of each grant*
- *the authorised purpose.*

Clubs must also publish information about their authorised purpose and how they spent the money they received from gaming machines, but they can do this in their annual accounts, in their club newsletters or in other forms of communication to their members.

Whichever form of communication societies and clubs use to publish this information, a copy of the published list must accompany their application to renew their gaming licences and it must be consistent with the amounts on the application.

To make the reporting process easier, societies should show their accountants the licence conditions before they start auditing gaming machine accounts. They will find those relating to expenses and societies' financial records especially useful.

## Payments for jackpot devices are unlawful

It appears that some gaming site operators are stating, incorrectly, that jackpot devices are gaming machines, and are claiming additional per machine per week payments for having the devices.

Jackpot devices are not gaming machines, payments for them are unlawful and such payments must not be made.

Making payments for jackpot devices is a breach of licence condition 56(3) and could lead to a licence being cancelled or suspended. This condition states:

*"The society shall not make payments to any site operator that exceed \$150 per machine per week (excluding GST) in total..."*

A jackpot device is a way of linking machines to create a jackpot. It is not a gaming machine in itself. Any costs that might be incurred in offering jackpot prizes are already included in the payments allowed by this condition.

# Site expenses cannot be used to enhance commercial premises

*There has been a recent increase in claims for expenses for enhancing and refurbishing premises where gaming machines are located. Some of these expenses have not been lawfully incurred.*

Societies and site operators should be clear about the expenses that are allowable, before they commit themselves to funding refurbishments.

Licence condition 56 (on page 53 of Set B Public Premises) states that: 'The society shall only apply gaming machine funds to expenses which are lawfully incurred and necessary to the society's gaming machine operations.'

This licence condition was put in place to achieve the objectives of the Gaming and Lotteries Act 1977, to raise money for authorised purposes and prohibit the conduct of gaming for commercial gain.

This means that expenses must be 'reasonable' and properly incurred. Gaming machine funds cannot be spent on enhancing commercial premises. Significant improvements to a site increase the commercial value of the property and can be considered commercial gain.

## What can gaming machine funds pay for?

A society can claim reasonable installation costs, and these are set out in the guidelines to the licence condition. Electrical wiring costs necessary to install the machines, and restoration of the paintwork, wallpaper and carpet in the area where structural changes have been made to accommodate machines, are costs that meet this condition.

A site operator cannot use the installation of gaming machines as an opportunity to make the society pay for refurbishment or enhancement of the premises.

Additional reasonable installation costs that are not specifically set out in the guidelines include:

- *a sign describing the location of the gaming area and the society that owns the machines on the site*
- *stools for patrons to sit on while playing the machines*
- *surveillance cameras relating only to the gaming machine area*

- *lights in the gaming area (but not for enhancement, ambience, or theming)*
- *computer equipment used for gaming machine record keeping only*
- *ventilation systems for the gaming area only.*

It must be emphasised that all these expenses must be reasonable and properly incurred.

## What gaming machine funds cannot pay for

When gaming machines are removed from a site, the costs of restoring the area to its former state must be met by the society.

Societies should be careful that restoration work does not go beyond restoring the machine area to the state it was in before the machines were installed. These restoration costs should not be incorporated into site payments.

A site operator cannot expect a society to pay for:

- *construction of a new and larger room to accommodate gaming machines*
- *remodelling, refurbishment or improvement of premises that are to be used as a gaming machine area*
- *surveillance cameras or security systems for the entire premises*
- *painting, re-carpeting or re-wallpapering outside the actual area where the machines are or were located*
- *any other fittings or chattels, such as new curtains, placed on the site for theming, enhancement or ambience purposes.*

These examples are based on the principle that expenses must be confined to the costs that are directly related to the installation and operation of gaming machines.

A society can deduct, as expenses, costs incurred in making the machines operational but not those costs incurred to create 'ambience' to attract patrons to the site.

# Electronic Monitoring (EMS) update

*The Department of Internal Affairs has been asked to provide advice to Government about the costs and benefits of introducing a central electronic monitoring system (EMS) for non-casino gaming machines.*

The Government's decision on EMS has been delayed due to the early election. A decision is now expected after the election.

In the meantime we will be doing more work on the impact of EMS on smaller societies. This work involves exploring the idea of establishing a benchmark to identify societies that might be

disproportionately affected by immediate introduction of EMS.

We intend to contact major sector groups to discuss this issue over the next couple of months.

Recently the Department sent letters to societies about the impact that implementation of an EMS would have on their gaming machine operations, and inviting comments on the proposed system.

In spite of the short notice and limited time for reply, there was a tremendous response. Department staff were able to meet representatives of many gaming sector organisations at meetings in Auckland and Wellington, and many more contacted the Department by phone, fax or mail.

We are grateful for the response and appreciate the time and effort put into submissions. All submissions are being considered carefully as part of the development of advice to Ministers on EMS, after the election.

## E-licensing a success

*A society recently discovered the benefits of e-licensing.*

A new gaming machine game was approved for operation in New Zealand in the morning. That afternoon, the society applied to amend its licence and was able to add a new game to its schedule.

The society could do that so quickly because it was registered as an e-licensing user.

There is a steady flow of societies expressing an interest in e-licensing, with 97 now registered to use it.

Please note that if you can't add a machine to your licence by using the e-licensing system, then you have probably been given incorrect information about the game approval number or the machine that the game can be operated on. Check with your distributor to ensure that you've been given the right information for your application.

Information on e-licensing is available on our website at [www.gaminglicensing.dia.govt.nz](http://www.gaminglicensing.dia.govt.nz)

## Gaming machines must be in designated areas only

*Societies that operate gaming machines in non-club sites open to the public can only place machines in areas designated on their licences.*

Licence condition 15(3) states that 'on all sites, the gaming machines must be operated within the designated area only and within the hours of business specified on the liquor licence'.

Societies often place their machines in a separately partitioned area or room. This room or area must be within the area designated on the licence. If it is not, then the society will be in breach of its licence conditions and will be placing its licence in jeopardy.

Societies may need to check licences to ensure that their sites are compliant. Department inspectors will be checking this requirement as they visit sites in the coming months.

# Society takes first steps towards EMS installs QCOM software

*QCOM is the software standard that will allow gaming machines to connect to an electronic monitoring system (EMS). The first gaming machine with QCOM capability has been approved for use in New Zealand. It is an upgrade of an existing machine and is already operating in the field. More equipment is likely to be approved in the coming weeks.*

A machine that has QCOM capability can be connected to an EMS. It does not mean that an EMS system has been installed in the machine. QCOM is a 'protocol' that ensures the machine can communicate with an EMS.

Only the manufacturer's technicians or authorised agents have access to the QCOM software configuration program.

As it is part of the game configuration, QCOM is active while the game configuration is completed. Because New Zealand does not currently have an approved EMS system, gaming machines with QCOM capability must have the protocol disabled in the meantime.

If the Minister of Internal Affairs makes a decision to introduce EMS, the compliant machines will be ready to be connected to such a system and QCOM would be activated.

## **New serial numbers for QCOM compliant machines**

QCOM requires each machine to be uniquely identifiable, and to this end, gaming machines that are QCOM compliant will use an eight-digit serial number system identical to that used in Queensland, Australia

Under the Queensland system, each manufacturer has a unique identifier of two digits. For example, Aristocrat is 00, IGT is 01 and so on. These digits are the leading digits of the serial number. The last six digits are allocated by the manufacturer from the range of numbers beginning at 000000 and ending at 999999.

In New Zealand, if a machine is upgraded or retrofitted with QCOM, its serial number will be modified to ensure that it complies with this numbering system.

Any letters that might be part of the old serial number would be deleted. If this leaves six digits, then the first would be replaced with a '9'. If required, more 9's would be added at the start of this portion to make it up to six digits.

If the current serial number is more than six digits, then the first digits would be deleted to make it a six-digit number, and the first digit of this number would be replaced with a '9'.

If a machine's serial number has been amended to the Queensland system, then its new number is the one that must be used for its licence application.

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# Responsible Gambling Bill carried over until after election

The Government Administration Select Committee did not report the Responsible Gambling Bill back to Parliament before Parliament dissolved for the election. Parliament carried the Bill over and, after the election, the new Parliament will decide how to handle it. One possibility is to refer it back to a select committee to pick up where the previous Committee left off.

Gambits will provide information about Parliament's decisions as it becomes available.

# 'Referral fees' or commissions are likely to breach licensing conditions

***Societies that pay 'referral fees' or commissions to people who broker arrangements between societies, sites or equipment distributors are likely to breach gaming licence conditions.***

Such arrangements would typically involve a broker or agent arranging for a society to acquire new sites or for a site to switch between societies. Paying a referral fee or commission for this is unacceptable, irrespective of whether the fees are paid up front or incorporated in the price of new machines.

Payment of such fees would be contrary to the objectives of the Gaming and Lotteries Act because they would increase the cost of machines and decrease the amount of money available for distribution to community groups for authorised purposes.

The Act requires that non-casino gaming is run in a way that maximises funds available to the community for authorised purposes and that it is not run as a commercial enterprise.

Licence Condition 8 requires societies to acquire gaming machines on the best possible terms.

Licence Condition 56 requires that expenses are lawful and necessary to the society's gaming machine operation. These fees or commissions are not a necessary part of gaming machine operation.

Licence Condition 57 requires that expenses are recorded for audit purposes. Packing referral fees or commissions into equipment prices is likely to breach this condition.

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## Consultation on new licence conditions

***The Department of Internal Affairs reviews, and if necessary revises, gaming licence conditions each year in time for the 1 October - 30 September licensing year.***

Last year significant changes were made, to make the conditions clearer. Their objective is to give effect to the Gaming and Lotteries Act 1977, which requires that all gaming income (less prizes and essential expenses) is distributed to charities and community purposes.

Most licence conditions appear to be working reasonably well. For that reason, and because new legislation is on the horizon, the Department does not expect to make major changes this year. We will, however, change any condition that is not clear or not effective, and will seek societies' input into this process.

This process will begin on July 17 when we circulate, and post on our website, the conditions

that are being considered for amendment. There will also be an opportunity to suggest whether there are other problematic licence conditions that need to be amended for the 2002/03 licensing year.

Information about consultation meetings will also be provided. Two meetings are planned in Wellington, one in Auckland and one in Christchurch, between July 19 and August 18, when submissions close. Societies will be able to make submissions by e-mail or post.

More information about the consultation process will be provided when dates and venues are finalised.

# October 1 deadline for compliance with gaming machine licensing conditions

***By 1 October 2002 societies that have gaming machines in public premises must comply with new licence conditions announced last year.***

When the current 'Set B - Public Premises' gaming machine licence conditions were issued in October last year, they included some new conditions and some clarifications. Societies were given until October 1 this year to become compliant with the following licence conditions:

- *a current liquor licence with designated 'restricted' or 'supervised' areas in which the gaming machines are located (N.B. clubs require a liquor licence to have gaming machines on their premises, but for clubs the licence does not have to include a designated area for the machines)*
- *maximum total site payment of \$150 per machine per week unless a dispensation to pay more has been granted*
- *a compliant site agreement*
- *gaming machines is not the primary activity on the site*
- *no sub-divided sites*

Details of these conditions were published in the March 2002 issue of Gambits. Please see pages 4-5 'Are you planning for 1 October 2002?' and page 6 'Dispensation from the standard \$150 pmpw site payment'. Further details are also available by contacting the Gaming Licensing Unit. Contact details are on the back page of this issue.

Inspectors will be out and about in the coming months to ensure that gaming machines operations are being conducted fairly and in accordance with the licence conditions.

If a society is unable to comply by October 1, but thinks that its site will be able to meet the conditions (e.g. the site's liquor licence application is still being heard), then the gaming machines should be turned off until the matter has been determined. Failure to comply could result in the suspension of the site's approval or suspension of the society's licence.

## Proposed new fees for gaming machines and licensing services

In April 2002 the Department of Internal Affairs undertook a brief consultation process relating to proposed new fees for gaming machine and licensing services. The fees were expected to be introduced in late 2002 and remain in place until a complete new schedule of fees is developed following the passage of the Responsible Gambling Bill.

Thank-you to everyone who took time to comment on the fees. Submissions closed on May 15 and they have been under consideration by the Government since then. With the General Election taking place on July 27, further consideration is on hold. It is not expected that a decision on new fees will be reached for at least a couple of months.

When new fees are set the Department will make available information clarifying the basis for the fee structure.

# Recent appointments

## National Manager of Gaming Compliance

***Gregory Crott has recently been appointed on secondment to the position of National Manager, Gaming Compliance.***



Mr Crott has an extensive public service background as a manager in a variety of roles that have involved him working closely with ministers and the business and commercial sectors. He has experience over many years in a regulatory/enforcement environment holding statutory positions as District Registrar of Companies and Official Assignee in Bankruptcy.

Prior to taking up this role, he had implemented and managed the Government's business development programme known as BIZ, which is aimed at improving the management capability of owner/operators of small and medium-sized businesses. During his three-year period in that role Greg worked closely with other government agencies, local body and private sector stakeholder organisations.

He says he is looking forward to the challenges offered by this role and meeting and working with major stakeholders within the sector.

## Communications Advisor

***Vincent Cholewa has been appointed Communications Advisor in the Department of Internal Affairs's Gaming and Censorship Regulation Group.***



Mr Cholewa will work closely with the Group's General Manager, Keith Manch, to develop communications plans and activities to help achieve the Group's overall objective of achieving compliance with New Zealand's gaming and censorship laws.

He has 16 years experience in public relations and journalism, and comes to the Department after working as an account manager for a public relations consultancy. His public sector experience includes eight years at the Commerce Commission, and prior to that communications roles at the Departments of Justice and Health.

## Gambits

Gambits is produced by the Department of Internal Affairs to provide information to the gaming sector in New Zealand. It is intended as education and communication that will help the sector comply with the law and licensing conditions by explaining what the law and conditions require, and how the Department operates.

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