

## EMS project completed

All 20,000-odd gaming machines at more than 1600 non-casino licensed gambling venues were connected to the new Electronic Monitoring System 10 days ahead of the statutory deadline of March 19.

The Gambling Act 2003 requires all such venues to be connected to EMS and it will be illegal to operate non-casino gaming machines not connected to EMS.

The Department of Internal Affairs undertook the management of this complex \$35 million project with the passing of the Act, the purpose of which included ensuring the integrity and fairness of gambling and that money from gambling benefits the community. The first venues were commissioned in May last year and the system was progressively rolled out across the country.

The Department was responsible for overseeing the entire EMS programme and appreciates the efforts of all involved in successfully completing this challenging project.

The system enables the Department to track and monitor the operations of gaming machines in pubs and clubs, ensuring the integrity of games, the accurate accounting of money and optimising compliance with the Act. Monitoring systems were already in place in New Zealand's six casinos.

EMS will monitor:

- how much money is gambled on each machine
- what each machine pays out in prizes to gamblers
- how much money should be banked.

The system also ensures that all software being used on the machines is identical to the approved versions, and will assist in detecting tampering with a machine or software. It also collects, stores, processes and publishes information on every gaming machine to a website daily.

The Director of Gambling Compliance, Mike Hill, says feedback about EMS from licence holders is generally very positive and exceeded expectations.

"As an ancillary benefit, EMS provided a platform that brought a sector-wide focus on improving the management of gaming machines," Mike Hill said. "The Department appreciates the response from gambling operators and stakeholders who, by contributing to the success of EMS, also improved other aspects of their compliance with the Act."

"The sector is anticipating further benefits over time, which should ultimately translate into more money going to the community."

The Department will publish data from EMS, including gaming machine proceeds by territorial local authority area, in its quarterly gambling licensing statistics, beginning with the period ending 30 June 2007. The statistics will be issued on 1 August.

The company implementing and operating EMS, Intralot NZ Limited, was responsible for installing the site equipment and central processing system and operating the system and helpdesk. The project also involved development of an interface between Intralot and the Department's systems and significant upgrades to the Department's licensing and financial systems.

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**DEPUTY SECRETARY**

## Balancing opportunities and risks

by Keith Manch, Deputy Secretary Regulation & Compliance

It is three months since I returned to the Department, after 19 months at the Ministry of Social Development. Many people have asked what it is like to be back. Sometimes the question sounds like “why would you want to do the same thing again?”

There are a couple of important differences this time round. The first is that the “new” job covers a range of subjects in addition to gambling regulation. On a personal level this is extremely interesting and challenging.

The second is that the role in the gambling sector is different. A good way of describing this is to draw on comments made by my predecessor in the new job, Andrew Secker, and my successor in the old job, Mike Hill.

Andrew noted in his “valedictory” *Gambits* article in September last year:

“...we have a system that stands up very well in terms of allowing gambling operators to conduct business in a regulated way while at the same time addressing the undoubted harms that gambling can cause.”

With the Gambling Act now fully in place, the game is very much about balancing the opportunities and risks associated with gambling.

Regulating a sector that is underpinned by a thorough regulatory framework that includes clear expectations, supplemented by well considered decisions from the Gambling Commission, is unquestionably different to working through a period where there were significant concerns about gambling and its regulation – and while

the new Act was being developed and working its way through the democratic process.

Mike noted in his article “Achieving Voluntary Compliance” in the same issue of *Gambits*:

“The Department is on record that it wants to achieve maximum voluntary compliance under the Gambling Act by working with and assisting operators in the industry. This will allow us to concentrate enforcement measures on the few who do not comply with the aim of deterring that behaviour in the sector.”

While the *notion* of voluntary compliance underpinned the work on enforcement and compliance strategies that was going on when I was at the Department last time, it can now be a *reality*. It is up to those operating in the sector to determine whether a voluntary compliance approach, underpinned by effective enforcement, will work.

As Mike said:

“Maximising voluntary compliance means having an environment where gambling providers want to, know how to and can comply with the Act, and all stakeholders accept the legitimacy of the compliance environment.”

I couldn’t have put it better.

### PUBS AND CLUBS

## Lobbying is not an authorised purpose

It is the Department’s view that grants of gaming machine net proceeds cannot be made to lobby groups or for lobbying purposes (where, for example, the purpose is to change a law, bring a court action, or influence a statutory decision making process). The definition of “authorised purpose” carries with it the notion of the purpose being beneficial to the community. Any consideration of whether one of these purposes is beneficial to a section of the community must also take into account the sections

of the community to whom the grant may be detrimental. The existence of lobby groups or action groups on any issue presupposes the existence of a contrary point of view. However, it may be possible to make grants to groups that are putting into effect decisions that have already been made for a community benefit, for example, to help a group raise funds for the improvement of a designated bird sanctuary.

## Minister uneasy about some GM grants

The current mechanism for distributing gaming machine proceeds to the community is working fairly well but there were aspects that gave him a sense of unease, the Minister of Internal Affairs, Rick Barker, told a seminar at Simpson Grierson in Wellington.

He questioned how using GM proceeds to pay for venue staff to attend an overseas conference served the community interest. And he described a grant to a mayoral election campaign as "truly bizarre".

"Cases like this can be taken to suggest that not everyone has fully embraced the Act's purpose of facilitating responsible gambling," Mr Barker said.

He also referred to a number of so-called "single purpose" societies that have limited the allocation of all or most of their gaming machine proceeds to just one authorised purpose.

"This could be rugby in a particular area, the racing industry, a rescue helicopter operation, or it could be a sports facility that the trust intends to own and operate," Mr Barker said.

"While these are all legitimate authorised purposes, I do wonder whether this is really in keeping with the spirit and intent of the legislation."

He promised to keep a close eye on the issue of community benefit.

"In particular, I'll be looking at just how the sector and government engage to deliver the aspect of balance and fairness," Mr Barker said. "The current system

for distributing gaming machine proceeds is heavily dependent on continued public confidence."

### EMS

Mr Barker said early signs from the new electronic monitoring system were encouraging.

"The EMS was introduced to safeguard the wider community," he said. "Public confidence in the integrity of the gaming machine sector is in everyone's interests ..... It is in everyone's best interests if operators endeavour to maximise their compliance with the Act."

Mr Barker said the introduction of the EMS had been an impressive logistical undertaking, none of which would have been possible without the full co-operation of Charity Gaming Association members and venue operators around the country.

On balance the Minister thought gambling legislation was working pretty well. It needed to be given a reasonable chance to work as intended before contemplating any major change in direction.

The full text of Mr Barker's speech can be accessed on: [www.beehive.govt.nz/ViewDocument.aspx?DocumentID=28551](http://www.beehive.govt.nz/ViewDocument.aspx?DocumentID=28551)

## EMS updates

Now that the electronic monitoring system (EMS) is fully operational the Department will periodically reinforce information published during the set-up phase and update societies and venues on new procedures. Here are some reminders:

### Venue relationship changes

Where gaming machines are transferred between societies but remain at the venue they still need to be decommissioned and recommissioned for EMS. The December 2006 issue of *Gambits* (page 8) carried guidelines on the transfer procedure under EMS. Back copies of *Gambits* can be accessed on: [www.dia.govt.nz](http://www.dia.govt.nz)

### New venues

New venues must first be licensed through the Department before they can be connected to EMS. Once a society has a venue licence it then liaises with Intralot for the installation of the router and site controller. Once these are installed the technician will commission the machines and the venue may commence operations. Under the Gambling Act 2003 no gaming machine can be operated after 18 March 2007 unless it is connected to EMS.

## PUBS AND CLUBS

# Recent appeals to the Gambling Commission

The Gambling Commission recently released its decisions on three appeals against decisions made by the Secretary for Internal Affairs in relation to class 4 gambling.

### Whitehouse Tavern Trust

The Whitehouse Tavern Trust case was a landmark decision resulting in the suspension of that trust for four days for misuse of gaming machine proceeds (GMP). The GMP had been used by the Trust for a variety of inappropriate purposes, including payments to venue staff for services other than those listed in the venue agreements, and trips overseas for venue staff.

The Commission provided important guidance about society representatives and venue staff using GMP to travel overseas for events such as conferences and trade shows. The event should be directly relevant to the society's role as a class 4 gambling operator. Societies should be prudent in determining the numbers of representatives they need to attend an event. It is doubtful whether it would ever be appropriate to send venue operators, managers and staff to such events.

The Commission determined that the use of GMP for mayoral campaign donations was an "electioneering" purpose and, therefore, neither an authorised purpose nor an actual, reasonable, and necessary cost of the gambling operation. It also determined that payments for lobbying purposes were outside the scope of the society's authorised purpose statement. (see "Pokie operation suspended" pg 12)

### Whiskey Jacks

The Whiskey Jacks' case resulted in the cancellation of a venue licence. The Secretary submitted that the venue was a "gaming shop" (ie a venue used mainly for gaming machines) and presented a range of strong evidence to show a prolonged history of non-compliance with the

Gambling Act. The weight and volume of the evidence the Secretary presented was critical to the Gambling Commission affirming the Secretary's decision. Societies must ensure that their venues are not used mainly for gaming machines, and must be able to provide strong evidence for this. (see "Gaming shop ordered closed" pg 13)

### Eureka Trust

The third appeal concerned Eureka Trust and the contracted services of a management company. The management company in question processed grant applications for Eureka Trust and serviced gambling equipment at Eureka's class 4 venues. The Department contended that these functions resulted in a breach of sections 113(b) and 113(c). The Department sought to place a licence condition on Eureka's licence to avoid this scenario. The Gambling Commission agreed with the Department that the arrangement was a breach of the two subsections. Section 113 was already clear that the company could not lawfully undertake both grant processing and repair services. The Commission rejected the condition as unnecessary because it duplicated an existing statutory prohibition. The management company is a key person in relation to venues by virtue of its servicing of gambling equipment. Section 113(b) prevents key persons in relation to a venue from being "involved in decisions about, or in managing the application or distribution of net proceeds from class 4 gambling", and section 113(c) prevents such key persons from providing "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". The Department is following this up with the society.

## Poker – a reminder

The popularity of poker throughout New Zealand has continued in the year since the March 2006 article in *Gambits* on "Conducting Poker".

## Depreciation guidelines

Currently, gaming machine societies are free to set depreciation rates and apply them as they see fit within the confines of generally accepted accounting principles.

The depreciation rate of gaming machines has a significant impact on the financial reporting of a gaming machine operator. Depreciation is the second largest expense incurred by societies after Gaming Machine Duty and is approximately 22 per cent of total expenses incurred.

The sector's ability to determine depreciation rates and methods has resulted in the following:

- A wide variance in both rates and method used for depreciation
- Some societies changing the depreciation rate applied year to year, to either increase or reduce expenses and, accordingly, annual net proceeds' totals
- Some societies potentially making large one-off losses or gains on sale of fixed assets through previous under or over reporting of depreciation
- Obsolete machines/gaming machine games being held and depreciated.

The Department considers this inappropriate for a number of reasons.

For example, by reducing the depreciation rate, the depreciation expense is then reduced thereby increasing available net proceeds. This could allow for other expenses to be increased such as wages. The continual alteration of the depreciation rates then allows for the societies to potentially "smooth" net proceeds.

Incurring a one-off, large Loss on Sale of fixed Assets can have a detrimental impact, not only on a society's net proceeds for the year, but also on the assessment of Financial Viability as required by section 52 of the Gambling Act 2003. A large one-off Gain on Sale could also result in the society being unable to meet the minimum return to authorised purposes.

The continued practice of depreciating gaming machines in storage is not appropriate. The costs are not reasonable, as the machines are not contributing to the generation of gaming income. The costs incurred for depreciation on stored machines unnecessarily reduce net proceeds and thereby the return to the community is reduced.

In order to ensure consistency within the sector and appropriate reporting of depreciation, the Department is issuing the following guidelines:

- "Diminishing Value" is the preferred method for determining depreciation on gaming machines due to the rapid decline in value experienced in the initial years of ownership
- New gaming machines should be depreciated over a period of no more than 3-5 years
- Once a depreciation rate is selected, that rate must be applied consistently throughout the life of the asset
- Obsolete machines are to be written off at the earliest point in time, particularly where machines are not QCOM compliant or capable of being upgraded
- Gaming machine software (games) is either expensed or has a rate reflecting its short asset life (eg under two years)
- All other assets are depreciated at rates consistent with the Inland Revenue Department prescribed depreciation rates for income taxation purposes. The use of either "Diminishing Value" or "Straight Line" methods is acceptable for assets other than gaming machines.

While the above are intended only to be guidelines, the Department will monitor the approach being taken. Practices outside these guidelines will be considered in the context of financial viability.

Many clubs and pubs are hosting poker evenings that either they organise themselves or are run by another organisation. There are many different rules to comply with in the Gambling Act 2003 depending on the nature of the event, how it is organised and who organises it. If these rules are not understood, there is the risk the evening may constitute illegal gambling. The Department

has a poker fact sheet on its website [www.dia.govt.nz](http://www.dia.govt.nz) and encourages any pub or club that has poker evenings, or is considering doing so, to understand the law and how it applies to them. The Department has come across several instances of non-compliance with the Act and is continuing to monitor the poker scene. We welcome any queries you may have on the application of the Act to an event.

## PUBS AND CLUBS

### Class 4 information project

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The Department has been consulting on a project to identify stakeholders' information requirements in relation to class 4 gambling and make recommendations on the implementation of a method to gather that information.

The Department currently gathers a variety of information for compliance purposes, but some detailed information that would be beneficial for stakeholders and policy development is either collected on an ad hoc basis or not collected at all. A good example of this is information on the application or distribution of gaming machine profits, which is gathered by way of occasional surveys.

Stakeholders have indicated that they would like to see such information gathered much more regularly and, where appropriate the information should include details such as a breakdown by territorial authority district or demographic characteristics such as gender, age or ethnicity.

The Department wants to identify the gaps in the information it collects so that it can collect and distribute the information that stakeholders require in an accurate and timely manner. We also need feedback from gaming machine operators on their ability to provide the required

information and on processes that could be implemented to make it easier to collect and provide the information.

Two main areas have already been identified as areas in which information (for purposes other than compliance) is deficient. The areas identified to date are:

- Information on funds applied or distributed to authorised (community) purposes
- Information on exclusion orders.

The first round of consultation is complete. A copy of the consultation document is available at [www.dia.govt.nz/diawebite.nsf/Files/DiscussionDoc\\_GatheringInfo/\\$file/DiscussionDoc\\_GatheringInfo.pdf](http://www.dia.govt.nz/diawebite.nsf/Files/DiscussionDoc_GatheringInfo/$file/DiscussionDoc_GatheringInfo.pdf)

We expect to undertake a second round of consultation on proposed options/solutions in April/May. If you have any questions about the project or are interested in making a submission, please contact Lee Patton at (04) 4959313.

### Overseas trips for society or venue representatives

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The recent Gambling Commission decision in the Whitehouse Tavern case resulted in a licence suspension and confirmed the Department's view of trips overseas by society or venue representatives to attend events.

In that instance, a trust was repeatedly sending a venue representative and too many representatives of the trust to an overseas trade expo. The Commission noted the complete lack of content at the expo that was relevant to venue compliance with the Gambling Act, and commented that on any 'sensible' application of the test for lawful expenses the travel was not actual, reasonable or necessary.

Societies have an overriding duty to minimise expenses. While it may be appropriate on occasion for a society representative to attend an overseas conference or other event that is directly related to the operation of class 4 gambling, the onus is on the society in every instance to prove robustly that the cost of attendance of each representative at events is actual, reasonable and necessary. This also includes the number of people a society chooses to send to an event.

It must be noted that it would be extremely difficult, if not impossible, for the Department to envisage a situation where it is an actual, reasonable, and necessary expense for venue operators, management or staff to attend an overseas event. There should be no need for any training or conferences for venue representatives that cannot be met inside New Zealand.

## Christchurch Casino prosecuted

Christchurch Casino is the first casino in New Zealand to be prosecuted for an underage offence under the Gambling Act 2003, providing a clear example of the Department's strategy of seeking voluntary compliance, underpinned by effective enforcement.

The casino pleaded guilty in Christchurch District Court to allowing a minor to remain on the premises in December 2005. Judge Philip Moran discharged the casino without conviction and ordered it to make a \$1000 donation to the Salvation Army.

Gambling Compliance Director, Mike Hill, said the offence occurred in December 2005 and the Department decided to prosecute after six earlier breaches involving minors between May and September 2005.

"Our objective in taking the prosecution was to effect change at the casino," Mike Hill said. "The age restriction of 20 on casinos is a key harm prevention and minimisation initiative. Research shows that younger persons are particularly susceptible to developing gambling problems.

"The Department is pleased the Christchurch Casino has accepted full responsibility for its actions in this case and has made a firm commitment to work with us to resolve the compliance issues associated with the prosecution."

## Dunedin Casino addressing concerns

It is over three years since Christine Keenan was convicted of seven dishonesty offences and five months since the Gambling Commission issued its decision to suspend Dunedin Casino's licence for two days.

Heeding the clear message from the Commission, the casino management has taken on a new direction and is progressing towards effective host responsibility and harm prevention and minimisation.

Following the Keenan case, the Department's Casino Compliance Unit has agreed a set of initiatives with the casino to address specific concerns highlighted by that case.

The casino has addressed its internal culture. New internal reporting procedures, for instance, have promoted greater communication of observations on the gaming floor, resulting in increased interventions and referrals to problem gambling services.

The casino has steadily updated key internal documents for harm prevention and minimisation and host responsibility.

Representatives of problem gambling service providers and other social service agencies in Dunedin have also commenced meetings with the casino and the gambling inspectors. The Dunedin Casino recently hosted the inaugural meeting of this forum, which was inspired by the success of a similar grouping in Hamilton over the past three years. It allows open discussion of local problem gambling issues and promotes collaboration among participating organisations.

Following the successful implementation of New Zealand's first multi-venue exclusion process in Queenstown, initial discussions are also underway to develop a similar process within Dunedin, with the Dunedin Casino as a key player.

The Department continues to be encouraged by the efforts of the casino to address core aspects of its operation in light of the decision in Keenan's case and in pursuit of voluntary compliance.

**Gambling  
Helpline**  
NEW ZEALAND

**0800 654 655**

*Open every day*

## HARM PREVENTION

# Problem gambling investigation - Keri Ann Boyer

This matter came to our attention as a result of the conviction and imprisonment of a 37-year-old woman for theft from her employer (using a document and dishonestly accessing a computer). She maintained at her sentencing that the money was stolen to feed her gambling addiction.

### Background

Keri Ann Boyer of Invercargill started as a part-time cleaner for a local company in March 2002 and worked her way up to an office position later that same year. Over time Boyer stole \$243,853.43 from her employer.

### The investigation

Gambling Inspectors interviewed Boyer after her court case. She identified the four Invercargill venues where she gambled.

The critical question for the investigation was whether the Invercargill Licensing Trust venue personnel discharged their obligations under the Harm Prevention and Minimisation Regulations of the Gambling Act. The requirement to provide this problem gaming awareness training took effect on 1 October 2005, some six months before Boyer was apprehended.

An NZQA-accredited professional service provider for problem gaming matters conducted this training. It traversed a list of indicators that staff should be aware of when dealing with gamblers, who in turn may be problem gamblers. Those signs are:

- Gambling for extended periods of time
- Neglecting important responsibilities i.e. children present but neglected
- Changes of time or money spent gambling, over a short period of time
- First to arrive and last to leave
- Regular trips to the ATM
- Irritability especially when access to cash is denied
- Standing around quietly watching other players – may have run out of money
- Favourite machine or system
- Playing multiple machines
- Showing signs of anxiety or depression, becoming less outgoing, irritable, taking less care of clothes

- Phrases: “I should have been at work an hour ago” or “I need to win before I can leave”
- Asking for credit
- Family ringing up stressed
- Increased isolation – dislike of interruptions or small talk.

The only indicator in this case was the repeated use of EFTPoS to obtain money and she explained this away when staff spoke to her.

As part of the investigation 12 Invercargill hotels were inspected for their compliance with the harm prevention and minimisation requirements of the law.

A number of the venues inspected had copies of self-exclusion orders, complete with photographs posted on notice boards in the staff areas. The inspection also highlighted a small number of venues that had potential unsupervised access issues to the gaming machine area. The venue operators promptly addressed these matters.

Departmental staff held a number of general discussions with the management team of the Invercargill Licensing Trust Foundation (ILTF), highlighting a number of proactive practices not required by statute that would raise the level of compliance in the area of harm minimisation.

Examples of these practices are:

- Ensuring photographs are obtained in each case an exclusion order is received
- Disseminating them to all venues
- Involving all venue managers in monthly meetings where examples of interventions are shared to highlight mobile problem gamblers
- Introducing a monthly reporting protocol for the venue managers to the Secretary Manager
- A check sheet for venue compliance
- Holding venue managers accountable for informing their respective staff of harm minimisation issues.

In summary, the Department found ILTF was actively pursuing a high standard of compliance.

## The PG Library versus the WWW

A strong collection of text-based and electronic resources on problem gambling is available in the library at the Problem Gambling Foundation in Auckland. The library is for everyone who has an interest in obtaining information about problem gambling.

The resources are organised by subject in a user friendly and accessible style. A qualified research librarian provides literacy training and literature searches. The library is an essential tool in information retrieval. It not only provides the "hardware" for research but also the expertise to uncover and analyse the information retrieved.

Many information seekers would rather use the Internet than library resources. They cite the need for up-to-date information as a criterion for their searches, but they fail to see that they may be reinventing the wheel by not checking the past and what has already been researched. Also, they are in danger of presenting information that has not been peer reviewed.

The librarian looks beyond the function as a collector and organiser of information and focuses on the people that the information is destined for by going beyond the Internet search engines and providing a better product.

Information gathered has been turned into fact sheets and over a dozen of these are available on the PGFNZ web

page. They cover problem gambling and women, the pokies, gambling facts, social and health consequences, warning signs, family violence, suicidal behaviour, health and social impacts, crime, and Asian problem gambling in New Zealand.

The PG library provides a regular monthly newsletter of new resources, interesting web pages and other information on problem gambling. The library catalogue/database will be accessible on the Internet for searching and ordering resources within the next few months. The library is open between 8.30am and 5pm daily.

### Glenda Northey MLIS, MA (Hons)

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## Problem gambling targeted by new campaign

A new television commercial called "Kiwi Lives" has launched a problem gambling social marketing programme developed by the Health Sponsorship Council.

The premise of the programme is that problem gambling is wrecking tens of thousands of New Zealanders' lives and that this is a problem shared by everyone in the community. The advertisement encourages people to think about the harm associated with problem gambling, who are affected by PG and the impacts for communities.

"Problem gambling affects us all - our families, our communities, our problem," the campaign says.

The campaign will also include radio advertising, information pamphlets and community activities.

The campaign reflects the public health approach of the Gambling Act 2003.

## Exclusion orders update

Guidelines to help venues and problem gambling service providers deal with gamblers wanting to self-exclude are being developed. Representatives of gambling providers and the Problem Gambling Foundation are working with the Department on the guidelines and the June issue of Gambits will give further information. The December 2006 and 2005 editions of Gambits carried extensive information about exclusion orders and can be accessed on: [www.dia.govt.nz](http://www.dia.govt.nz)

## ALL GAMBLING

### Commitment on consultation

The Department has prepared guidelines on how it consults the gambling sector on a range of issues. The guidelines will soon be available on our website: [www.dia.govt.nz](http://www.dia.govt.nz)

The Gambling Act 2003 stipulates we must formally consult “those most likely to be affected” before finalising regulations such as game rules and standards. We will consult with different groups depending on the issue but, in general, consultation will include: gambling operators, problem gambling treatment providers, other sector interest or reference groups, lobby groups, territorial authorities, the Ministry of Health, overseas regulators, and representatives of the people most likely to be affected by the issue at hand. Often it will also be appropriate to consult with manufacturers, researchers and experts.

In the interests of good relationships and obtaining the best information we will often consult stakeholders on other issues such as the development of policies and administrative procedures.

When consulting, we must take into account all views and make recommendations in accordance with government policy. The aim is to impartially identify the best solution to a problem, irrespective of whether this favours particular interests.

Generally we will allow 20 working days for the sector to comment on proposals – although we might allow more time if the issue is complex, or less if the issue is urgent. We will provide feedback on the results of consultation.

### First Infringement Notices issued

The Department has begun issuing Infringement Notices under the Gambling Act 2003. There are 24 sections (and subsections) for which Infringement Notices can be issued and Schedule 6 of the Act lists Infringement Offences.

The first Infringement Notices were issued for persons offending against section 104 of the Act - the banking of gaming machine profit from class 4 gambling.

Initially this section was aligned to the Gaming Duties Act. But with the passing of the Gambling (Class 4

Banking) Regulations 2006, this is no longer the case, and gaming machine profit must be banked within five working days of its calculation.

With all venues now linked to EMS, the week’s gaming machine profit is calculated early on a Monday, and has to be banked into the society’s account no later than the following Friday.

An Infringement Notice cannot outline more than one offence, so more than one late banking or other instance of non-compliance in the Schedule 6 offences, could result in multiple Infringement Notices.

The infringement fees for Schedule 6 offences range from \$100 to \$5000. The fee for an individual late banking is \$2500.

#### LOCAL GOVERNMENT

### Reminder to Territorial Authorities

Territorial Authorities are reminded that under section 102(4) of the Gambling Act 2003 they must provide the Department with a copy of their reviewed or changed class 4 venue policies as soon as practicable.

## Liquor and other prohibited prizes

Liquor, or vouchers that entitle the winner to liquor are not allowed to be offered as a prize for a raffle, competition or other gambling activity. There have been several situations recently where the Department has been aware of liquor, vouchers for liquor, or bar tabs being offered as a prize for gambling.

This prohibition also applies where a business runs a sales promotion scheme involving gambling. Sometimes a supermarket, liquor store or other business will offer a gambling prize voucher that gives general entitlement to any goods sold by the business. In this situation the voucher should say that the entitlement cannot be redeemed for liquor.

There are other prizes prohibited by the Gambling (Prohibited Property) Regulations 2005. These regulations list the items of property that may not be offered as prizes for gambling or used to reward a winner of gambling.

In summary, the prohibited property items are:

- A firearm, explosive (including ammunition), restricted weapon or airgun as defined in the Arms Act 1983
- Liquor as defined in the Sale of Liquor Act 1989
- A tobacco product as defined in the Smoke-free Environments Act 1990
- A taonga tuturu as defined in the Protected Objects Act 1975 (broadly, Maori cultural and heritage items that are more than 50 years old)
- A voucher or entitlement to any of the items listed above

- A voucher or entitlement to commercial services as defined in the Prostitution Reform Act 2003.

Section 17 (2) of the Gambling Act 2003 provides that gambling that uses property prohibited under the regulations will be illegal gambling.

A person or organisation that conducts or participates in illegal gambling commits an offence under section 19 of the Act. It is also an offence under that section to promote or assist in promoting illegal gambling or to advertise illegal gambling.

The penalty on conviction for participating in illegal gambling is a fine of up to \$1000. The penalty for conviction on the other offences in section 19 relating to illegal gambling is:

- (a) in the case of an individual, imprisonment for a term of up to 1 year or to a fine of up to \$20,000
- (b) in the case of a body corporate, a fine of up to \$50,000.

Everyone involved in running gambling activities anywhere, including raffles at school or church fairs, or in sales promotion schemes must comply with these regulations. (see warning to liquor stores page 13)

## Cross-border co-operation

The Department has contributed to the successful prosecution of a Canadian man who ran an international lottery scam.

The man was fined a record \$225,000 under Canada's Criminal Code for offences relating to direct mail lottery schemes that brought in \$47 million. He sold shares of lottery tickets to thousands of consumers in the United States, Britain, Australia and New Zealand, misleading them to believe they had better chances of winning significant amounts of money than buying directly from authorised vendors and that the promotions were government-affiliated. It is illegal in Canada to sell, print or market lottery products without approval from an authorised government body.

Internal Affairs' Operational Policy Manager, Kate Reid, provided investigators from Canada's Competition Bureau with a signed statement that none of the lottery promotions had ever been authorised for sale in New Zealand and nor would they because there was no apparent benefit to the New Zealand community from these games.

## MEDIA RELEASES

# Pokie operation suspended

13 December 2006

The Gambling Commission has ordered the Trust, which operates 18 gaming machines at Papakura's Whitehouse Tavern, to shut its gambling operation for four days for misusing over \$33,000 of 'pokie' money. This is the first time the Commission has suspended a pub gaming machine operator. Earlier this year it suspended the Dunedin Casino for two days.

The Whitehouse Trust's misuse of community funds consisted of a \$1000 contribution to Glenn Archibald's 2004 Papakura Mayoral electoral campaign, \$1279 for its venue manager, Roger Garrick, to attend the 2004 Australasian Gaming Expo, \$5842.50 to Mr Garrick for services to the Trust and a \$25,000 grant to the Ardmore Tenants' Association for challenging noise restrictions on the Ardmore Aerodrome.

The Department of Internal Affairs had proposed a month's licence suspension, reduced to seven days after the Whitehouse Tavern Trust recovered \$5200. This amount relates to the cost of the trip and money paid for Mr Garrick's services after the Gambling Act became law. The Department didn't pursue other money because the trust had already paid it to third parties who were not subject to the action taken under the Gambling Act.

The payments, which breached the Gambling Act or licence conditions, were identified in an audit of the Trust's gaming operations. The Trust appealed to the Commission.

The Commission said in its decision that, "given the flagrancy and significance" of the breaches, it would not be appropriate to waive a suspension. It said the Trust voted to send Mr Garrick to the expo two months after the Department warned it not to, Whitehouse attempted to circumvent the Gambling Act, which prevents gaming machine money being used for electioneering purposes, and the grant to the Ardmore Tenants' Association was not an 'authorised purpose' under the Trust's licence.

Whitehouse argued that the payment to Mr Archibald's mayoral campaign was reasonable because it was for the "survival of the Trust".

The Trust's counsel wrote to the Department: "Mr Archibald had promoted local gaming policy that coincided with the charitable objectives maintained by the Trustees. On the other side of the political spectrum, there are opposing factions which, if they are to obtain reasonable traction, represent a considerable risk to the Trust's very existence."

In its decision the Commission said:

"Whitehouse committed multiple breaches, involving a significant amount of community money. Whitehouse has not shown any contrition."

But the Commission considered it unfair for the Department to have stated it would consider withdrawing the suspension if Whitehouse recovered \$5200 paid to Mr Garrick. However, the Commission noted that the Department continued to be concerned that, despite recovering the \$5200, Whitehouse would continue to breach the Act and send managers to future Australasian Gaming Expos. The Department was also concerned that Whitehouse would not acknowledge wrongdoing.

The Department's Acting Director of Gambling Compliance, Greg Crott, said the Commission's decision is a good reminder to all societies of their responsibilities.

"The money raised by the gaming machines is held in trust by societies for the community and is destined to benefit a range of activities identified as authorised purposes under a society's licence conditions," Mr Crott said. "Societies can claim expenses for their operations but they must be actual, reasonable and necessary and we scrutinise these carefully during audits."

All Gambling Compliance staff can be contacted by phoning the Department's tollfree number

0800 257 887

## Gaming shop ordered to close

22 December 2006

The Gambling Commission has backed a Department of Internal Affairs' decision not to renew the licence of Rotorua gaming machine venue, Whiskey Jacks. The Department has told First Sovereign Trust, which operates the machines at the Hinemoa Street venue, to cease operations immediately.

The Department declined to renew Whiskey Jacks' licence because the venue continued to be used as a gaming shop, which the Gambling Act forbids. The Trust appealed but the Gambling Commission said the decision was correct.

"The Commission noted that the submissions and evidence filed by the Secretary (for Internal Affairs) demonstrated serious non-compliance at the venue over a long period of time," the Commission said. "The appellants

failed to file any evidence to explain this non-compliance, or to in any way attempt to satisfy the Commission they would be compliant in the future."

The Department's Acting Director of Gambling Compliance, Greg Crott, says the venue licence, as approved in December 2003, required building alterations to change the main activity to other than gambling. But that condition was never complied with, thus the refusal to renew the licence and subsequent appeal.

The Trust has been told to switch off the machines immediately and remove them from the venue as soon as possible.

"Continuing to operate the machines will be regarded as illegal gambling," Mr Crott said.

## Warning to liquor stores

18 January 2007

The Department of Internal Affairs has warned liquor stores operating customer loyalty schemes that they are breaching the law if points won in draws are used to purchase alcohol.

The Director of Gambling Compliance, Mike Hill, says that under the Gambling (Prohibited Property) Regulations 2005, liquor cannot be a gambling prize.

"We became aware that some liquor stores with loyalty schemes, also run a weekly draw with loyalty points as the prize," Mike Hill said. "In turn, the points may be redeemed by purchasing goods and services. But liquor is a 'prohibited property' under the regulations and cannot be used to reward a winner of gambling.

"We have advised the outlets that they can avoid the breach by incorporating a rule in their promotions that loyalty points won in a draw cannot be used to purchase alcohol.

"Loyalty schemes can be operated but they must comply with law."

## Gambling access restricted

11 December 2006

A side-street entrance to Wellington's Occidental Hotel pokie machines must be closed, the Gambling Commission ruled. The decision backs a licence condition by the Department of Internal Affairs that access to the gaming area must be in direct line of sight to the main bar to guard against minors accessing the machines.

Unison Trust, which operates the machines, lost its appeal against the condition. The Commission's ruling is in line with a decision it made in June when it rejected a similar appeal by the Lion Foundation brought on behalf of 11 venues around the country.

Internal Affairs' Acting Director of Gambling Compliance, Gregory Crott, welcomed the result.

"This will ensure consistency across the gambling sector," Mr Crott said. "It will also limit the opportunity for problem gamblers to enter the area without being seen."

**MEDIA RELEASES**

## Bookmaker convicted

27 February 2007

The first person to be prosecuted by the Department of Internal Affairs for bookmaking under the Gambling Act 2003 was sentenced to 100 hours of community work in the Gisborne District Court today.

Bernadette Antoinette Wawatai, 44, a seasonal worker, was convicted on two charges of conducting illegal gambling in the Turanga Hotel, Gisborne last year.

Judge John Hole accepted submissions from the Department's prosecutor, Saar Cohen-Ronen that, because of Wawatai's financial situation, a community-based sentence would be more appropriate than a substantial fine. The Act provides for a fine not exceeding \$20,000 or up to a year's prison.

Judge Hole ordered the forfeiture of \$1158 seized from the bookmaking operation.

Internal Affairs' Director of Gambling Compliance, Mike Hill, said the Gambling Act allowed gaming machines on licensed premises to raise money for community purposes and restricted race betting to the TAB.

"Bookmaking effectively diverts money from the community and from the racing industry, which gets much of its financial support through the TAB," he said.

## RSA fined for illegal gambling

1 March 2007

Newmarket RSA has been fined \$9500 plus \$630 costs for conducting illegal gambling.

Department of Internal Affairs prosecutor, Mark Woolford, told Judge Lindsay Moore in the Auckland District Court that the club had operated eight unlicensed gaming machines for over a year, from October 2004 to November 2005, generating over \$62,000 in profit.

Judge Moore ordered forfeiture of the machines. He also discharged without conviction co-defendant and club manager, Joan Morrow, on payment of \$500 costs.

The Department's Director of Gambling Compliance, Mike Hill, said the Department refused to renew the club's licence in September 2004 on the grounds of financial viability, including continuous failure to pay the problem gambling levy.

Mr Hill reminded venues of a change in gambling controls taking effect this month. From March 19 all non-casino licensed gaming machines in some 1600 venues must be connected to the new Electronic Monitoring System (EMS).

"EMS will control and monitor the operation of every non-casino gaming machine, providing the Department and operators with independently verifiable data, reducing the opportunity for dishonesty and helping ensure gambling is fair," Mike Hill added.

"Some venues are not connecting to EMS and will have to cease operation from the 19th of March. To continue operating machines not connected to the EMS will be to conduct illegal gambling. The Department will be checking to ensure that in this situation gaming machines have been shut down and removed from the premises."

**Gambits' Editor is Trevor Henry.**

If you have any questions about articles in Gambits, would like further information or have comments about what information we could provide to make Gambits more useful to you, please contact: Trevor Henry

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## GAMBLING COMPLIANCE KEY CONTACTS

# 0800 257 887

### Keith Manch

Deputy Secretary, Regulation and Compliance Branch

The Department reorganised its internal structure in 2004 and created a Regulation and Compliance Branch that encompasses all the roles where the Department is, in effect, the regulator of a sector of the economy.

In addition to gambling, this includes censorship compliance, local government services, fire service policy, identity services policy and civil defence and emergency management policy. For the sake of simplicity, the functions outside the gambling sector are not included on this page.

Important changes for gambling regulation included bringing management of Gambling, Censorship and Racing Policy into the same branch, and separating the management of gambling and censorship compliance. As part of these changes the Gaming and Censorship Regulation (GCR) group was separated into two units, Gambling Compliance and Censorship Compliance, in 2005.

### John Markland

Manager Gambling, Racing and Censorship Policy

This team is responsible for policy advice to the Government, especially in relation to Acts and Regulations. A significant change the Department made was to disband what was a separate Policy Group, and to bring this Policy team into the same branch as the Gambling Inspectors and other Gambling Compliance staff. This means that policy and operational staff can benefit from each other's knowledge and experience.

### Mike Hill

Director Gambling Compliance

This position is responsible for the Inspectors and other staff working with the gambling sector to bring about compliance with the law. The Director works closely with the Manager Gambling, Racing and Censorship Policy so that there is a constant flow of information between the staff involved in applying the law and those who develop the law.

### Kate Reid

Manager Operational Policy

Operational policy provides support and advice to the Gambling Inspectors and other staff working in the sector. It develops standards, game rules and other "deemed regulations". In broad terms, its role is to develop the Department's policies about how the law will be turned into the work done in the field.

### Gregory Crott

National Manager Licensing and Compliance

This unit is responsible for licensing and compliance of all gambling outside casinos. This includes gaming machines in pubs and clubs, lotteries, housie and other games of chance. Staff make decisions on licence applications, carry out audits, conduct investigations and receive public complaints.

- Northern Regional Manager (based in Auckland), Geoff Lawry
- Central Regional Manager (based in Wellington), Neve Christoforou
- Southern Regional Manager (based in Christchurch), Kevin Owen
- Licensing is carried out by a team in Wellington

### Debbie Despard

National Manager Casino Compliance

- The Department has Gambling Inspectors working in each of the country's six casinos. They carry out audits, ensure ongoing suitability of casino staff, investigate incidents and gamblers' complaints and ensure that the casinos comply with the Gambling Act.
- Northern Regional Manager (based in Auckland), Maria Bradshaw
- Southern Regional Manager (based in Christchurch), Dennis Petersen

### Geoff Owen

Manager Investigations Unit

The Investigations Unit is responsible for undertaking significant (complex, cross group, lengthy and sensitive) investigation projects involving criminal, legal and financial issues related to the governance and operation of gaming sector people and organisations. It also provides expertise and support to investigations and audits across the group.

## CONTACTS

All gambling compliance staff can be contacted by phoning the Department's tollfree number

**0800 257 887**

E-mail: [gaming.licensing@dia.govt.nz](mailto:gaming.licensing@dia.govt.nz)

Web: [www.dia.govt.nz](http://www.dia.govt.nz)

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PO Box 805, Wellington, Fax: (04) 494 0562

### GAMBLING LICENSING

PO Box 10-095, Wellington, Fax: (04) 494 0656

### GAMBLING COMPLIANCE

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#### Christchurch

PO Box 1308, Christchurch, Fax: (03) 353 8309

## GAMBITS

The Department of Internal Affairs produces Gambits quarterly. Copies are distributed in March, June, September and December.

Gambits provides information about the Department's recent work and significant issues in the gambling sector.

It is intended for sector organisations and the community in general, to increase understanding of and compliance with the law.

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## Do you want to receive Departmental media releases and Gambits?

If you would like to have your organisation added to the Department's distribution list for media releases about gambling issues, or want to receive Gambits but are not currently on the mailing list, please fill out this form and return it, or e-mail the information to:

Department of Internal Affairs, PO Box 805, Wellington. Communications Advisor Trevor Henry, telephone (04) 495 7211, fax (04) 495 7224, e-mail [trevor.henry@dia.govt.nz](mailto:trevor.henry@dia.govt.nz)

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