

Proposed fees under the Gambling Act 2003
– to take effect as of 1 January 2008

The Regulation and Compliance Branch of the Department of Internal Affairs provides gambling licensing and compliance services that are funded by fees paid by users.

Section 370 of the Gambling Act 2003 (the Act) provides that regulations may be made prescribing the fees or charges payable to enable the recovery of direct and indirect costs of the Department, the Gambling Commission, or the Police in:

- publicising and informing people about the Act;
- administering the Act;
- enforcing and monitoring compliance with the Act; and
- doing anything else authorised or required by the Act.

The Government is proposing to set new fees for these services in accordance with the Act. This consultation document has been prepared to include substantive elements of a regulatory impact analysis to assist the public and the gambling sector when considering these proposals. A formal Regulatory Impact Analysis (analysis of regulatory proposals), designed to improve the quality of regulatory interventions, is required to support most proposed changes to government regulations.

The document outlines problems and options and asks for your input on the impacts of the options. Your feedback, including maintaining the status quo, will contribute to the Regulatory Impact Analysis that will help government with its decisions. Following public consultation the Department will review all the comments received and prepare a paper for Ministers' consideration.

KEY MESSAGES

- Currently the costs of regulation are in excess of the revenue received and are not sufficient to support the proper, effective regulation of the gambling sector. The forecast deficit is not sustainable and means that the taxpayer, rather than the gambling sector is funding a significant amount of gambling regulation.
- Costs have risen due to a low-end estimation, in 2003 when the Act was passed, of the capability required to meet the demand of the Act for a comprehensive approach to regulating the sector. The cost of integrating the electronic monitoring system (EMS) with other Departmental systems is also more than expected.
- The higher than anticipated costs also reflect the requirement of the Act to address broader outcomes and harder-to-measure activities, such as harm prevention and minimisation and dealing with crimes of dishonesty associated with gambling.
- Revenue has fallen due to a greater than anticipated decline in the number of operators and gaming machines.

- A significant amount of the forecast increase in expenditure has been contained or deferred. No further savings can be made without seriously compromising the effectiveness of the gambling regulatory function.
- It is proposed that fees not be reviewed again until 2011, providing a degree of certainty to the sector.

WHY ARE NEW FEES REQUIRED?

Expenditure higher than expected

In 2004, the current fees were set prior to much of the Gambling Act coming into force. The Department noted the uncertainty over how the gambling sector would respond to the new environment and future volumes of work in a number of areas. The Department undertook to monitor the business activity, costs and revenue in the first years of the fees coming into effect with a view to conducting an early fees review.

The fees for the new electronic monitoring system (EMS) for all non-casino gaming machines came into force in May 2006. Due to the tight statutory timeframe for implementing the EMS, the fee to recover the cost of the system had to be put in place before the total cost was clear.

As the result of monitoring costs and revenue the Department has identified that:

- The forecast costs of the Department and the Gambling Commission exceed the forecast revenue derived from fees charged to the gambling sector, requiring a corresponding increase in the Department's budget.
- Departmental costs for managing the EMS contract and modifying the Department's systems to ensure compatibility with EMS have exceeded previous estimates.

Revenue has dropped

The number of gaming machines, licensed operators and gaming machine venues have declined to a level that is less than forecast.

Table 1

	Estimated no.s for 2003 Business Plan	Projected no.s for 2007 Business Plan
Class 4 Societies	528	440
Class 4 venues	1,877	1,580
Class 4 gaming machines	21,778	20,000

As most of the Department's revenue is derived from fees charged to license gaming machine operators and venues, and a compliance charge per gaming machine, revenue has declined.

An adjustment to fees levels is required to recover the cost of regulating the gambling sector and to provide certainty as to fee levels for the next 5 years. The proposed fee increase will recover the current deficit and increased costs by the end of the fees review period.

Has the problem been correctly defined? Are there other problems and how significant are they?
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WHAT CHANGES ARE PROPOSED?

In general the proposed fees have been set at a level that is intended to recover the actual compliance and administrative costs of providing each service and are, in accordance with the Treasury Guidelines for Setting Charges in the Public Sector (www.treasury.govt.nz/publicsector/charges/). While many fees would increase, some would decrease or stay the same.

Class 3 Fees

Under the Gambling Act 2003, most existing house, lotteries and other games of chance do not require a licence. The exception is operations with prizes in excess of \$5,000, which are classified as class 3 gambling. Class 3 operators require a licence. The current fees for class 3 gambling appear to accurately reflect the cost of carrying out the licensing and compliance checks required by the Act and no change is proposed.

Class 4 (Gaming machines) Fees

The proposed licence application fees for class 4 operators and venues reflect the cost of the more stringent licensing process required under the Act and reflect the different cost of processing applications for clubs and societies operating on commercial premises. As the current fees were based on estimates prior to the licensing and compliance provisions of the Act coming into force, the proposed fees more fully reflect the time and resources needed to undertake these responsibilities under the Act. The fee increases also take into account the cost increases in a number of support and service areas (ie Intelligence/Investigations, technical capability, Gambling Commission, salary and corporate costs).

While the most significant increases are for new licence applications (of which there are very few), significant increases are also proposed for class 4 fees generally. For most societies the two largest contributors to their overall fee increase will be the compliance fee charges per gaming machines and the EMS fee. Table 1 below gives an indication of the level of fees that would be paid by gaming machine societies of different sizes.

Whereas a fee is currently charged for amendments to licences, it is proposed that new fees be charged for notifications (ie less significant changes to information recorded on a licence). The Department now understands that one of the most time consuming changes to an existing licence relates to changes to a “key person”, which is notified by an operator and for which there is currently no charge. The cost of other operator licence amendments will reduce by \$90.

It is proposed that clubs, the New Zealand Racing Board and racing clubs operating in their own clubrooms be charged lower licensing fees than other class 4 operators and not pay a separate operator’s compliance charge. The Department has provided for a modest increase in the resources dedicated to assist clubs in achieving compliance with the Act. However, because fewer licensing checks are required and a less stringent auditing regime is needed, it is appropriate that societies operating from their own premises are still subject to lower fees than other class 4 operators.

Table 2 - Impacts of Proposed Fees

Non Casino Gaming Machines - Annual Licensing, Compliance & EMS Fees	Estimated typical annual gaming machine profit	Proposed combined fees	Percentage Increase
Renewal - Club with 10 gaming machines	\$ 180,000	\$ 10,329	15.5%
Society with 5 venues, 70 machines	\$ 3,950,000	\$ 70,079	15.2%
Society with 50 venues, 900 machines	\$53,010,000	\$ 819,957	13.9%

Electronic Monitoring Fees

At the time of the EMS procurement process and during the EMS related fee setting it was not envisaged that the Department would have significant costs associated with monitoring except in the selection of the service provider, implementation to venues and appropriate IT systems to collate and analyse information.

The fee that funds the EMS was put in place 12 months ago. This fee, which is charged at a rate of \$1.14 (GST incl) for every day that a gaming machine is operated, was put in place prior to the implementation of the EMS and was based on an estimate of system development costs, the business impact of integrating EMS into existing systems and processes and the level of the Department's ongoing management and support of EMS. These were all difficult to forecast and in hindsight were set too low to accurately reflect the cost to the Department of implementing and running the system. The true costs of implementing the legislation effectively are emerging from operational experience. An additional \$4.099 million will have to be recovered from EMS fees over the period of the review if the full cost of the project is to be recovered.

In addition, the EMS fee was based on an estimate of the number of gaming machines and the days that they operate. The Department has now revised the number of gaming machines downward to 20,000 meaning that a larger cost must be recovered from the operation of a smaller number of gaming machine days. The overall impact is an increase in the fee to \$1.35 (GST incl) per machine per day. For larger societies, the change in the EMS fee will be the single largest contributor to their overall increase in fees.

Licensed Promoters

Licensed Promoter fees currently reflect the full cost recovery and the more rigorous checks under the Act. No change is proposed for these fees.

Casino fees

The annual fee charged to each casino is a combination of Departmental direct costs plus support costs and overheads, which are allocated across all casinos on the basis of player positions at table games and gaming machines. The current fees were based on an allocation of baseline costs, with a limited contribution to central overheads, prior to the implementation of the Gambling Commission. The proposed fees allocated a greater proportion of these overheads to casinos. In addition, the Gambling Commission's activity in relation to casinos has increased in excess of the original forecasts.

The allocation of business support cost of the Intelligence, Investigations and Operational Policy units between casino and non-casino sectors, have changed since fees were last reviewed in 2003. This reflects the change in the focus of activity in casino compliance from routine audit work to

specific investigations in key risk areas such as problem gambling and criminality in casinos. The corresponding impact has been a shift of some costs from the non-casino gambling area.

Over the last two years the regional Casino Inspectorates have moved off-site from a number of casinos. The objective is to enhance the independence of the Inspectorate, both perceived and real, when dealing with other agencies and members of the public. This has led to additional rental costs and depreciation for capital expenditure on casino surveillance equipment of \$1.0 million over the period of the review.

It is proposed that fees for the approval of a casino operator's licence, a casino venue agreement and the approval of an associated person will not change. These fees are either at the right levels or there has been insufficient activity to judge whether the fees continue to remain appropriate.

Certificates of Approval (COA) are required for staff to work in a casino. The application fee for a COA has increased to take into account the cost of Police background checks, the cost of which are not currently recovered.

Appeals to the Gambling Commission

Maintaining access to justice means that filing and hearing fees for appeals to the Gambling Commission are not set on a full cost recovery basis. The unrecovered cost associated with these lower fees is spread across all other fees based on an estimate of the number of appeals and their complexity.

Following discussion with the Gambling Commission, it has been decided that the current fee for filing an appeal is too low to act as a disincentive for frivolous and vexatious appeals and should increase from \$120 to \$250. The proposed appeal filing fee is not expected to be so high as to bar access to justice. No change is proposed for the daily and part-day hearing fee. It is proposed that the Gambling Commission receive an additional \$200,000 per annum to offset the increase in legal costs arising from the increased complexity of the appeals that are being received.

DEPARTMENTAL CHANGES

Change in strategic direction

The purposes of the Gambling Act include, among other things, an emphasis on the prevention and minimisation of gambling-related harm and the limiting of opportunities for crime and dishonesty associated with gambling. In response to these requirements the focus of the Department's activity in casino compliance has evolved from routine audit work to specific investigations in key risk areas such as problem gambling and criminality in casinos. The Department works closely with the Police and other law enforcement agencies, sharing information and co-operating on enforcement actions. The Department's initiatives in casino compliance have on occasion resulted in significant prosecutions.

Investigations/Intelligence Unit

While the work of the Department's Intelligence and Investigations Units is expanding, these activities were not fully costed into the current fees model. The two Units support the casino and gambling areas by providing a range of intelligence products and services, which identify and assess the nature and risk of trends, groups and individuals that impact upon the regulatory environment established under the Act. The Intelligence Units provides tactical, operational and strategic intelligence in support of the Act's compliance objectives and manages and stores information in a secure and accessible environment. It also maintains relationships with external groups to enhance the Branch's role as a regulator and support an overall government approach to law enforcement.

Technical capability

As part of its regulatory function, the Department tests, approves and certifies games, gaming machines and other gambling equipment and sets and monitors technical standards for their operation. Given that the Act exerts control over gaming machine numbers, both within casinos and outside, operators have put a greater emphasis on technological change as a way of maximising revenue.

The need to increase capability in the technical gaming and IT areas reflects the increasing technical demands of EMS, the technical sophistication of gaming machines and the ongoing improvements in IT systems. This is especially true of the Department's key licensing and compliance system that was developed and implemented in 2004/05. The cost of increasing this technical capacity within the Department is \$0.843 million over the period of the review.

Staffing levels

Forecast costs allow for salary increments of 2.5% per annum until 2009/10 resulting in an additional cost of \$2.836 million over the period of the review. Previously the fees model did not allow for rising costs due to salary increments. No other inflationary costs are currently built into the model.

The Department is still operating at the same number of core audit and compliance staff envisaged at the time the Act was introduced. There has however been a net increase of 7 full-time equivalents (FTE) in the following areas:

- Intelligence 4
- Investigations 1
- EMS/Technical gaming 6
- Management/support 2
- Organisational review (6)

An organisational review is being undertaken to ensure that regulatory activities are undertaken in the most cost effective and efficient manner, consistent with our strategies and objectives.

Contribution to corporate costs

Over the last 2 years the Department of Internal Affairs has invested in strengthening its governance, IT and project management capability. The Regulation and Compliance Branch, which manages the Department's gambling operation has received considerable benefit from this investment. To date these additional costs have been funded from savings in other areas (total savings of \$2.2 million) but this cannot be maintained long-term without impacting on the Group's capability. Increased overhead costs amount to over \$1 million per annum.

WHAT ARE THE OTHER OPTIONS?

Status Quo

Forecast expenditure levels for 2007/08 and beyond are in excess of current baselines. Currently the costs of regulating the gambling sector are being partially met by the Department. The continuation of the existing fees fails to address the policy objective that the regulation of the gambling sector should be paid for by the sector. The status quo does not therefore appear to be a viable option. An increase in fees is necessary to recover the additional costs required to regulate the gambling sector effectively and strengthen the Department's ability to achieve the strategic outcomes sought.

Reduce Costs Further

The Department could elect to focus primarily on a “cost savings” approach, for example reducing the number of staff, at the expense of taking a more strategic view and continuing to focus on achieving the purposes of the Act. This would be at variance with what the Office of the Auditor-General has recommended and, in a wider context, with the Department’s mandate under the Act. This approach is likely to lead to poorer regulatory outcomes.

The current and forecast capability is required to achieve the specific purposes and broader activities of the Act. This will include the encouragement of voluntary compliance through engagement with a wide range of stakeholders at all levels, which is a resource intensive activity, and intelligence and investigations activity to support the focus on higher risk areas of the gambling sector. Cost cutting will undermine this activity.

Are there other options that should be considered? Which option do you favour?

Have the costs and benefits of each option been identified and do the benefits justify the costs?

What will be the cost of the proposed changes on your organisation?

Additional Information

The Department has produced a business case which explains in greater detail its costs and the reasons for the proposed fees. This business case can be found on the Department’s website at www.dia.govt.nz.

Submissions

Please provide any **comments in writing** by 24 September 2007 to:

Gambling Act Fees
Gaming, Racing and Censorship Policy
Department of Internal Affairs
PO Box 805
WELLINGTON

Or by e-mail to: lloyd.bezett@dia.govt.nz

Or by fax to: 04 494 0624

The Department is particularly interested in how the proposed fees will affect the operation of organisations and individuals involved in the gambling sector.

Please note that all submissions may be made publicly available, unless you say you do not want that. Even if you do ask that your submission (or part of it) be kept confidential, we might be required to release it at a later date if someone makes a request under the Official Information Act 1982.

Schedule of Proposed Fees (GST incl.)

Product / Service	Current Fees \$ (GST incl.)	Proposed Fee \$ (GST incl.)	Annual Volumes
Class 3 Operator Licence			
New or renewal (prizes not exceeding \$50,000)	100	100	85
New or renewal (prizes exceed \$50,000 and all housie)	707	707	15
Amendment	344	344	1
Class 4 Operator Licence			
New (Clubs, NZ Racing Board, racing clubs)	973	4,068	1
(Other societies)	1,295	4,068	1
Amendment (Key Person)	344	636	68
Notification (Key Person)	0	636	27
Amendment (Other)	344	254	52
Notification (Other)	0	254	16
Renewal (Clubs, NZ Racing Board, racing clubs)	887	1,271	375
(Other societies)	1,123	2,543	65
Class 4 operator's annual compliance fee	3,566	4,063	65
Class 4 Venue Licence			
New (Clubs, NZ Racing Board, racing clubs)	543	763	10
(Other societies)	608	1,017	250
Amendment (Key Person)	258	636	35
Amendment/Notification (Key Person)	0	636	650
Amendment (Other)	258	254	1,400
Notification (Other)	0	254	200
Renewal (Clubs, NZ Racing Board, racing clubs)	372	127	380
(Other societies)	469	191	1,200
Class 4 venue annual compliance fee (per machine)	373	425	20,000
EMS Fee (per machine per day)	1.14	1.35	20,000
Licensed Promoter Licence			
New or Renewal	1,375	1,375	2
Temporary Authority	100	100	0
Certificate of Approval	270	328	400
Casino Operators Licence			
New	340,000	340,000	0
Amendment	1,000	1,000	0
Temporary Authority	23,000	23,000	0
Casino venue agreement			
New (including change of licensed operator)	23,000	23,000	0
Amendment	1,000	1,000	0
Associated person	330	330	10

Product / Service	Current Fees \$ (GST incl.)	Proposed Fee \$ (GST incl.)	Annual Volumes
Casino Operator's annual fee			
Sky City Auckland Casino	2,218,207	2,894,927	N/A
Sky City Hamilton Casino	548,184	733,513	N/A
Christchurch Casino	925,431	1,253,045	N/A
Dunedin Casino	477,394	556,895	N/A
Sky City Queenstown Casino	237,501	237,824	N/A
Wharf Casino (Queenstown)	216,259	221,434	N/A
Monthly penalty for non-payment of casino operator's annual fee	5%	5%	
Appeal Fees Filing	120	250	N/A
1 day hearing fee	450	450	N/A
Half day and part half day hearing (after first day)	450	450	N/A