



## Gambling (Class 4 Net Proceeds) Regulations 2004

Silvia Cartwright, Governor-General

### Order in Council

At Wellington this 18th day of October 2004

Present:

Her Excellency the Governor-General in Council

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

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## Regulations

### 1 Title

These regulations are the Gambling (Class 4 Net Proceeds) Regulations 2004.

### 2 Commencement

- (1) Regulations 7, 13, 16(b), and 17 come into force on 1 July 2005.
- (2) The rest of these regulations come into force on 1 December 2004.

### 3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
 

**Act** means the Gambling Act 2003

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

**net proceeds committee** means a committee established under regulation 8.
- (2) Unless the context otherwise requires, terms and expressions that are not defined in these regulations but that are defined in the Act have the same meaning as in the Act.

## Part 1

### Requirements for holders of class 4 operator's licence

#### 4 Application of this Part

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

**5 Duty to keep documents and data**

- (1) A licence holder must keep documents and data relating to the conduct of its class 4 gambling that are up to date and accurate and enable the verification of all transactions relating to the conduct of its class 4 gambling.
- (2) Without limiting subclause (1), a licence holder must ensure that documents relating to—
  - (a) the application of funding to authorised purposes or distribution of funding for authorised purposes, as the case may be, are up to date and accurate on a day-to-day basis; and
  - (b) the payment of costs are up to date and accurate on a day-to-day basis.
- (3) Without limiting subclause (1), a licence holder must keep the following documents and data relating to the conduct of its class 4 gambling—
  - (a) a record of its assets and liabilities; and
  - (b) a day-to-day record of its income and expenditure and the matters in respect of which income and expenditure occurs; and
  - (c) documents associated with gambling equipment; and
  - (d) documents recording the application of funding to authorised purposes and grant distributions for authorised purposes, as the case may be, on a day-to-day basis; and
  - (e) the licence holder's financial statements and documents relating to the annual report required under section 107 of the Act; and
  - (f) vouchers, bank statements, invoices, receipts, and other similar documents to verify the matters referred to in paragraphs (a) to (e).
- (4) A licence holder must ensure that an agreement or arrangement that it enters into for the provision of goods or services related to the conduct of class 4 gambling—
  - (a) is in writing; and
  - (b) specifies the particular type of goods or services and itemises their cost.
- (5) A licence holder must retain the documents and data required under subclauses (1) to (4) for a period of not less than 7 years after the date on which they were completed or compiled.

- (6) A licence holder must retain at the class 4 venue copies of records, required by any relevant game rules, that have been completed or compiled at the venue.
- (7) The copies of records referred to in subclause (6) must be retained at the venue for at least 1 month after they are completed or compiled.

## **6 Management of gambling equipment**

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

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

- (ii) a gambling inspector or a person nominated by the Secretary; and
- (e) an accurate and detailed record is kept of installation, servicing, maintenance, repairs, and modification of the equipment.

## **7 Provision of information about application or distribution of net proceeds**

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

## **8 Establishment of net proceeds committee**

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

## **Part 2**

### **Additional requirements for holders of class 4 operator's licence that conducts class 4 gambling mainly to distribute net proceeds to community**

#### **9 Application of this Part**

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

#### **10 Minimum amount of net proceeds to be distributed for authorised purposes**

- (1) The minimum amount of net proceeds that a licence holder must distribute for authorised purposes is the proportion equivalent to 37.12% of its GST exclusive gross proceeds for each of its financial years.
- (2) The first financial year in relation to which a licence holder must comply with subclause (1) is the financial year that commences after the commencement of this regulation.
- (3) This regulation is subject to regulation 11.

#### **11 Timing requirements for distribution of proceeds for authorised purposes**

- (1) A licence holder must distribute for authorised purposes,—
  - (a) during each of its financial years at least every quarter, all or nearly all of the net proceeds from the class 4 gambling during the financial year; and
  - (b) within 3 months after the end of each of its financial years, any remainder of the net proceeds from the class 4 gambling during the financial year.
- (2) The first financial year in relation to which a licence holder must comply with subclause (1) is the financial year that commences after the commencement of this regulation.

**12 Requirements relating to recovery of grants made to grant recipients**

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

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

**13 Requirements for maintenance of websites**

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

**14 Net proceeds committees that mainly distribute net proceeds to community**

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

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

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

- (a) the date that each grant is made;
- (b) the name of the grant recipient;

- (c) the specific purpose of the grant:
- (d) the amount of the grant:
- (e) the cheque number or direct debit transaction details relating to the grant.

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

A licence holder to which this Part applies must ensure that a net proceeds committee—

- (a) provides a grant applicant with reasons for the committee's decision if a grant application is declined; and
- (b) does not approve a grant application unless it is made on a grant application form that includes the information required by regulation 17; and
- (c) does not approve a grant application unless it is supported by a competitive quote or other evidence that the sum of money sought by the applicant is appropriate; and
- (d) does not make a grant if the committee has information indicating that the grant applicant has received funding from another source for the same specific purpose; and
- (e) does not make a grant to reimburse money already spent by a grant applicant; and
- (f) pays grant money direct to a grant applicant; and
- (g) makes a grant from available net proceeds and not on the understanding that grants will be approved in respect of net proceeds that will be available in the future; and
- (h) makes a grant on the condition that the grant money is used only for the specific purpose for which the application was made; and
- (i) pays grant money by—
  - (i) a cheque made out in the name of the grant applicant and crossed "Account payee only" or "Not transferable"; or
  - (ii) a fully auditable direct bank payment.

**17 Minimum requirements for grant application forms**

- (1) A licence holder to which this Part applies must ensure that its application form for grants from net proceeds requires the following information from a grant applicant:
  - (a) the applicant's name and contact details:
  - (b) the legal personality of the applicant and, if the applicant is not a natural person, the purpose of the applicant and the name and contact details (including a street address) of a contact person:
  - (c) specific reasons for the grant application:
  - (d) the total amount of money sought by the applicant:
  - (e) evidence supporting the total amount sought (for example, competitive quotes for goods or services to be paid for by the grant):
  - (f) whether the applicant has applied for funds for the same specific purpose from another source:
  - (g) whether the applicant is registered for goods and services tax and, if so, its goods and services tax number:
  - (h) the applicant's bank account details.
- (2) A licence holder must ensure that its application form for grants from net proceeds requires,—
  - (a) if the applicant is not a natural person, 2 representatives of the applicant to make declarations that—
    - (i) the information provided in the application form is true and correct to the best of their knowledge; and
    - (ii) they have the authority to make the application on behalf of the applicant; or
  - (b) if the applicant is a natural person, that the applicant makes a declaration that the information provided in the application form is true and correct to the best of his or her knowledge.
- (3) A licence holder may require a grant applicant to provide further relevant information.
- (4) A licence holder must ensure that its application form for grants from net proceeds makes provision to record whether the application is approved or declined and, if a grant application is approved,—
  - (a) the amount approved; and
  - (b) the date of the approval; and

- (c) the cheque number or details of the direct debit corresponding to the grant; and
- (d) the grant number; and
- (e) the signatures of the persons approving the grant.

Diane Morcom,  
Clerk of the Executive Council.

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### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, most of which come into force on 1 December 2004, set out requirements, under the Gambling Act 2003 (**the Act**), for the holders of class 4 operator's licences ("licence holders") in respect of the net proceeds generated from gaming machines situated in venues other than casinos. Regulations relating to notices about the application or distribution of net proceeds, websites, and application forms for grants come into force on 1 July 2005.

The regulations are divided into 2 Parts. Part 1 (regulations 4 to 8) sets out requirements for all licence holders. Part 2 (regulations 9 to 17) sets out additional requirements for licence holders that conduct class 4 gambling mainly to distribute net proceeds to the community ("licence holders that mainly distribute net proceeds").

*Regulation 4* provides that Part 1 applies to all licence holders.

*Regulation 5* requires a licence holder to keep documents and data relating to the conduct of class 4 gambling up to date and accurate. A licence holder is also required to ensure that agreements or arrangements entered into for the provision of goods or services related to the gambling are in writing and set out the specifics of the goods or services. Copies of documents and data must be kept by a licence holder for 7 years. Copies of records required by game rules must be kept at the venue for at least 1 month after they are compiled or completed.

*Regulation 6* relates to the management of gambling equipment. Only vendors, technicians, or service agents may install, service, maintain, repair, or modify the equipment and modifications must comply with the requirements of the Act. The regulation also

imposes restrictions on the persons who may access the internal components of the equipment, cashbox compartments, bank note devices, and the logic compartment and software of the equipment. Accurate and detailed records must be kept of servicing, maintenance, repairs, and modification of the equipment.

*Regulation 7* requires a licence holder to display a notice at each of its class 4 venues informing players about how to obtain information about the application or distribution of net proceeds.

*Regulation 8* requires a licence holder to establish a committee to make decisions on the application or distribution of net proceeds. The committee must comprise at least 3 natural persons that are key persons. Under the Act, a key person is an office holder, chief executive, or other person who exercises significant influence in the management of the licence holder.

*Regulation 9* provides that Part 2 imposes additional requirements on licence holders that mainly distribute net proceeds.

*Regulation 10* sets out a minimum amount of net proceeds that must be distributed by licence holders that mainly distribute net proceeds. The amount is the proportion of net proceeds equivalent to 37.12% of their GST exclusive gross proceeds each financial year.

*Regulation 11* further requires these licence holders to distribute most of the net proceeds for authorised purposes on a quarterly basis and to distribute the remainder of net proceeds to authorised purposes within 3 months after the end of each financial year.

*Regulation 12* requires licence holders that mainly distribute net proceeds to obtain the return of money distributed to a grant recipient who has received funding from another source for the same purpose or who has mis-used the money.

*Regulation 13* requires these licence holders to maintain a website and update the website every 6 months. The regulation sets out information and features that must be included on the website.

*Regulation 14* includes an extra function for the net proceeds committees of licence holders that mainly distribute net proceeds. In addition to their other functions, the net proceeds committees must distribute net proceeds from class 4 gambling for authorised purposes.

*Regulation 15* specifies records that must be kept by these net proceeds committees, relating to the distribution of net proceeds.

