

2 September 2004

Letter to all non-club societies

Limits and exclusions on venue expenses

The Department of Internal Affairs has developed a new framework under the Gambling Act 2003 for the payments class 4 corporate societies make to class 4 venues (“venue payments”). This letter outlines the framework.

The Gambling Act contains a number of requirements that relate to venue payments, including the following:

- the Secretary must be satisfied that class 4 corporate societies will maximise authorised purpose contributions and minimise operating costs (s52)
- all money earned from gaming machines (whether directly or indirectly) other than the actual, reasonable and necessary costs incurred in the gambling and in complying with the regulatory regime, and levies and taxes, must be applied to authorised purposes (s106 and definition of “net proceeds”)
- payment of commission is prohibited (s115)
- the Secretary can limit or exclude the costs that may be incurred for venue expenses by a corporate society conducting class 4 gambling, by notice in the *Gazette* (s116)
- costs associated with the operation of gaming at a class 4 venue must be included in the venue agreement (s69).

Gazette notice set

The Secretary for Internal Affairs has gazetted a notice under s116 that limits and excludes class 4 venue costs. This letter explains the intent of the notice and the requirements on societies that result from the notice. A copy of the *Gazette* notice is attached.

Process of development/consultation

The notice was recently finalised after an extensive process of development that involved:

- an analysis of the economic effects of the Gaming and Lotteries Act 1977 regulatory regime and venue payments policy, and gaming sector practice
- an analysis of the economic effects of limits on costs
- consultation on proposed limits, including extended consultation with representatives from the gaming sector
- the commissioning of a report from an independent accounting firm to assess the drivers of costs for the operation of gambling at class 4 venues and benchmark actual, reasonable and necessary costs.

What does the notice mean in practice?

Nature of costs now prescribed

The categories of costs that may be claimed by a venue are now prescribed within the notice. There are three categories of costs: “Hourly Operating Costs”, “Weekly Operating Costs” and “Venue Operating Costs”. The notice specifies subcategories of costs for each category (e.g. “Hourly Operating Costs” are made up of labour costs for the performance of tasks required for the hourly operation of machines, electricity, and fees associated with managing the provision of these services).

Some examples of how different labour costs may fit into the different categories are given below. This list is not exhaustive but merely provides examples of how costs may be dependent on the different cost drivers utilized in the notice.

“Hourly Operating Costs”

- Hopper refills
- Cancelled credit payments
- Clearing coin jams
- Customer service
- Resolving player disputes

“Weekly Operating Costs”

- Starting up and closing down
- Clearing cash boxes
- Bagging coins
- Meter readings
- Jackpot analysis records
- Preparing WGMPR
- Preparing MMA
- Reconciling float

“Venue Operating Costs”

- Banking GM profit
- Cleaning.

While a standard rate has been used by the Department to set the limits, less time with a higher rate, or more time with a lower rate will also fulfill the *Gazette* notice requirements.

Any cost not prescribed in the notice is excluded. So only the costs listed in the *Gazette* notice, and further specified in the venue agreement, may be claimed within each category.

Limits exist for costs

The notice limits each category of cost separately. The total of these three limits creates, in effect, the maximum that a venue can be paid in a week. This limit is dependent on the number of machines and the number of hours that the venue operates for.

Hourly cost limits are based on the hours of operation of gaming machines and the number of gaming machines, and therefore the limit increases with increased hourly operation and increased machine numbers. Weekly cost limits are based on the number of machines, and therefore the limit rises with increased machine numbers. Venue costs are limited for a venue per week. The limits are \$0.60 per machine per hour plus \$75 per machine per week plus \$800 per venue per week.

Some examples of the effective limits are given in the table below for a range of likely operating scenarios.

Number of machines	Hours of operation	Limit for hourly use (\$0.60 pmpH)	Limit for machine related costs (\$75 pmpw)	Limit for venue related costs (\$800 pvpw)	Maximum possible payment per venue per week
9	60	\$324	\$675	\$800	\$1799
9	90	\$486	\$675	\$800	\$1961
9	120	\$648	\$675	\$800	\$2123
18	60	\$648	\$1350	\$800	\$2798
18	90	\$972	\$1350	\$800	\$3122
18	120	\$1296	\$1350	\$800	\$3446

One effect of these limits is to make the standard basis for assessing costs a per venue per week amount. The previous system of dividing the weekly amount by the number of machines will not reflect the components of the limit, and therefore is not a useful method of comparing costs between venues or between this venue payments regime and the regime under the Gaming and Lotteries Act 1977.

Society expenditure on venue expenses capped

The notice also limits the percentage of society expenditure that a society can spend on venue expenses overall. From December 2005 onwards only 16% of total turnover less prizes in any 12-month period can be put towards venue expenses.

Standard form available for assessing costs

During the consultation process sector representatives requested that a standard form be made available for assessing venue costs and facilitating compliance with the new

system. A draft form is attached. While it is possible that the Department could make the use of such a form mandatory, we are not doing so at present. However, the use of this form within venue agreements would ensure that the requirement to list venue expenses on venue agreements was fulfilled in part. We would be interested in feedback on this form.

Third party providers

Some societies use third party providers to provide the services that are prescribed by the *Gazette* notice as being claimable by venues. The notice does not prevent this practice. However, where this practice occurs the cost of the third party providers' services must be counted towards the limit, and the venue must not claim the same cost. This means that the limit is a limit on the total cost of providing the service by all providers.

Exclusions in the notice

Costs that are not incurred by the venue are excluded. Therefore costs claimed by venues must be incurred by the venue. For example, where labour is claimed, the venue must be paying staff to fulfil the tasks at the range and for the hours claimed.

The notice does not specify limits for each subcategory. However, during the process of developing the overall limits, the Department assessed expected average amounts of each subcategory. We will provide corporate societies with summarised information on these expected average amounts.

Any cost that has not been listed in the venue agreement is excluded. This means that societies and venues need to list the costs in their agreements.

Fees

A venue can now claim fees within each category of costs but these fees are limited to a 25% mark-up of the costs in that category. For example, if a venue is claiming \$1000 per week incurred costs for a particular cost category they can only claim a maximum \$250 fee for providing that particular service. The total of incurred costs and fees must be within the limit for that category.

Capital cost recovery

An allowance for capital costs has been included within the limits. The notice excludes the practice of societies incurring the cost of capital developments at a venue in addition to a venue payment. Capital development or enhancement of a venue must now be incurred by the venue, and any recovery of that cost that a society agrees to must be paid for weekly within the limits. The capital cost is based on an outlay of \$35,000 depreciated over three years or an outlay of \$65,000 depreciated over five years.

Implementation dates

There are some potentially significant implementation issues associated with this notice. To allow for this most of the provisions of the notice come into effect on 2 December 2004, that is, 3 months after the notice was placed in the *Gazette*. This period is to allow time for venue agreements to be amended. The 16% threshold for societies will come into effect on 2 December 2005, i.e., 15 months later. This allows for 12 months of operation of the venue limits before the overall society limit is imposed.

Further information to be provided

Details of how the Department will assess compliance with the Act's requirements for venue payments, including limits in the *Gazette* notice, are currently being developed. We will be providing detailed information to corporate societies on how they can ensure that they are complying with these requirements over the next three months.

For further information about the new venue payments regime contact:

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Yours sincerely

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