

## Territorial Authorities and Class 4 Gaming Machine Numbers

Operating gaming machines outside casinos is categorised as Class 4 (high-risk) gambling. The Gambling Act 2003 aims to facilitate community involvement in decisions about the provision of gambling. Territorial authorities are required to introduce policies that have regard to the social impact of gambling within their territorial district. The following information outlines the functions and powers of territorial authorities under the Act.

A society must apply for territorial authority consent before it:

- Establishes new gaming machine venues (NOTE: the requirement to seek territorial authority consent for new venues applies to venues that did not have a licence on 17 October 2001 and venues that after 17 October 2001 have been without a licence for six months or more)
- Increases the number of machines that may be operated at existing venues.

See 'Territorial authority consent' on page two of this Fact Sheet for more information.

### Class 4 venue policy

Section 101 of the Gambling Act requires every territorial authority to adopt a policy on the location of Class 4 gambling venues. This policy must be adopted and can only be amended or altered through the use of the Special Consultative Procedure as defined in the Local Government Act 2002.

The policy:

- Must take account of the social impact of gambling in the region and may take account of other relevant matters
- Must specify whether or not Class 4 venues may be established in the territorial authority district and, if so, where they may be located
- May specify any restrictions on the maximum number of gaming machines that may be operated at a Class 4 venue.

A territorial authority's decision on the establishment of new gaming machine venues or the addition of machines to venues must be made in accordance with the gaming machine venue policy.

A territorial authority must have recourse to the Special Consultative Procedure if they wish to vary or amend their policy once it is set in place.

Section 102(5) of the Gambling Act requires that a territorial authority complete a review of its policy within three years after adoption and then every three years after that. Territorial authorities are advised to contact the Department of Internal Affairs or to seek independent legal advice if any aspect of the policy process is unclear.

### Other controls on the growth of gaming machines

The Gambling Act introduced limits on the number of gaming machines at any venue:

- No venue may have more than 18 machines, except a merged club with the approval of the Minister of Internal Affairs to operate up to 30 machines (see 'Ministerial discretion' below)
- Venues that did not hold a licence on 17 October 2001 are restricted to a maximum of nine gaming machines, except with the approval of the Minister for a club to operate up to 18 machines (see 'Ministerial discretion' below)
- Venues without a licence for six months or more are restricted to nine gaming machines except with the approval of the Minister for a club to operate up to 18 machines (see 'Ministerial discretion' below)
- Venues that held a licence on 17 October 2001 and have not been without a licence for six months or more are restricted to the number of machines at a venue on 22 September 2003, unless they obtain a territorial authority consent to operate more.

Societies must apply to the Department for an amendment to their licence every time they want to change the gambling equipment at the venue. If a territorial authority consent is required, it must be provided to the Department with the relevant licence application.

### Ministerial discretion

Ministerial discretion exists to increase gaming machine venue limits. This applies to clubs on non-commercial premises (not, for example, pub venues).

The Ministerial discretion will allow an increase of machine numbers to:

- A maximum of 30 at any existing venue where two or more clubs want to merge
- A maximum of 18 machines on new club venues.

However, any Ministerial discretion is subject to territorial authority consent.

#### Territorial authority consent

Territorial authority consent is required when a society proposes to:

- Increase the number of gaming machines that may be operated at any venue. (NOTE: 'increase' includes an increase from mandated maximum limits. For example, a Departmental condition or the number of machines a venue notified on 22 September 2003 under Section 89 of the Act, but not an increase after a voluntary reduction in the current number of machines operating)
- Start operating gaming machines at a venue that was not on any society's licence within the previous six months
- Start operating gaming machines at a venue for which a licence was not held on 17 October 2001
- Apply for ministerial discretion to increase the number of gaming machines over the statutory limit, under sections 95 or 96.

Territorial authority consent is not required when:

- An operator applies for a licence within a period of six months since a Class 4 venue licence for a premises was last held
- A society wishes to return to the statutory or mandated maximums after a voluntary reduction.

Territorial authorities should be aware of and take into account the above provisions when considering their gambling venue policies.

#### Applying for territorial authority consent

An application is made to the territorial authority for the district in which the Class 4 venue is to be located.

An application is to be accompanied by the information required by the territorial authority.

A territorial authority must consider an application for a territorial authority consent in accordance with section 100 of the Gambling Act.

It may then either:

- Grant a consent with or without a condition specifying the maximum number of gaming machines that may be opened at the venue; or
- Not grant a consent.

Territorial authorities must decide consent applications in accordance with their policies.

When the Department is considering territorial authority consent it must be satisfied that it is genuine, lawful and valid. It must comply with all of the above as well as further statutory requirements. The Department will refuse to consider an application for a licence or an amendment unless the relevant territorial authority consent has been granted and said consent is proper and lawful in all respects.