

Class 4 Net Proceeds

Net proceeds regulations

The Gambling (Class 4 Net Proceeds) Regulations 2004 set out requirements for the holders of Class 4 operator's licences ('licence holders') in relation to the net proceeds generated from gaming machines.

Most of the regulations came into force on 1 December 2004, but the regulations relating to notices about the application or distribution of net proceeds, website requirements and grant application forms came into force on 1 July 2005.

The regulations are divided into two 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 who conduct Class 4 gambling mainly to distribute net proceeds to the community by way of grants. This contrasts with licence holders that conduct Class 4 gambling to raise money for their own authorised purposes (e.g. clubs and dedicated charities).

Authorised purposes

'Authorised purposes' for Class 4 are defined under the Gambling Act 2003 as:

- Charitable purposes
- Non-commercial purposes that have community benefits
- Promoting, controlling and conducting race meetings.

A society must state what its authorised purposes are, and the statement will be included on its gaming licence.

Net proceeds

'Net proceeds' are calculated from:

- Total turnover from gaming machines plus any interest plus the proceeds of sales of gaming assets minus the actual, reasonable and necessary costs of conducting gambling (including prizes) and complying with the regulatory regime.

Corporate societies, clubs and charitable organisations have three options for distributing the net proceeds from gaming machines.

They may:

- Distribute grants to the community, as long as the grants fit the societies' statements of authorised purposes
- Apply funds to their own authorised purposes
- Both distribute grants to the community and apply funds to their own authorised purposes.

The Gambling Act introduces the following safeguards to enhance the integrity of the grants process.

These include:

- No key person at a Class 4 venue may be involved in the grant application process
- The Department of Internal Affairs has additional powers in relation to auditing societies, businesses at Class 4 venues and grant recipients
- There is provision for regulations relating to the distribution of funds, e.g. the methods and processes used to deal with applications
- Attaching conditions to the receipt of grants is prohibited
- There are provisions preventing licence holders and key persons from seeking or receiving money, advantages or other kickbacks in return for grants.

All corporate societies that hold a Class 4 venue licence must display in the venue information including:

- Commencement and expiry dates of the venue licence
- Contact details for the venue licence holder
- How to make complaints about the conduct of gambling or the conduct of a Class 4 operator's licence.

If the corporate society distributes money to the community, societies must also display:

- Information about how and where to apply for a grant
- Information about how to make complaints if a grant application is unsuccessful
- A statement that the law does not permit venue personnel to be involved in the grants process
- The Gambling Act specifies in detail how this information must be displayed at each type of venue (section 82).

Corporate societies must also:

- Publish details of both successful and unsuccessful applications
- Review their grants processes (including criteria) annually and publish the results.

A list of corporate societies that make grants and their contact details is available on the Department's website: www.dia.govt.nz

Minimum distribution of net proceeds

Licence holders must distribute a minimum of 37.12 per cent of their GST exclusive net proceeds for each of their financial years.

This is regardless of whether a licence holder mainly distributes net proceeds to the community or applies proceeds for its own authorised purposes.

Net proceeds committees

Regulation 8 requires a licence holder to establish at least one committee to make decisions on the application or distribution of net proceeds.

Net proceeds committees are also responsible for the administration of grant applications. Different committees may be established for specific reasons or districts, or for specific authorised purposes, but a committee must always comprise at least three persons who are key persons under the Act.

A key person is defined as an applicant for, or holder of a Class 4 operator's licence who is:

- A trustee or other officer of the corporate society
- The chief executive of the corporate society
- A person who exercises significant influence in the management of the corporate society.