

# Gambits

NEWSLETTER OF  
GAMBLING ISSUES

SEPTEMBER 2009

THE DEPARTMENT OF INTERNAL AFFAIRS

Te Tari Taiwhenua

## Strong warnings for CI 4 sector

Two Gambling Commission decisions contain strong warnings for the Class 4 gambling sector to comply with their statutory requirements or suffer the consequences.

In one, the Commission rejected Kiwi Community Trust's appeal over the Department's decision to refuse to renew its operator's licence, made because the society was not financially viable and had failed to make the minimum return to authorised purposes. Based in Pukekohe, south of Auckland, the Trust had only one venue at the time of the appeal. This is the first time the Commission has refused to renew an operator's licence.

The Commission said the distribution of all or nearly all net proceeds for community purposes is fundamental to the operation of Class 4 gambling and regulations prohibit operators from hoarding this money and building up cash reserves for future operations.

In the other decision, the Commission rejected Christchurch-based Eureka Trust's appeal against Department decisions to suspend five of its Class 4 venue licences for failing to notify changes in venue operators and managers. The Commission said it was satisfied Eureka failed to comply with requirements of the Gambling Act 2003 and licence conditions.

The Department had set the suspensions at one and two days but the Commission considered these inadequate and increased them "to reflect its view of the seriousness of the breaches". Operations at Robbies Bars and Bistros at Belfast, Queenspark and Cranford in Christchurch were suspended for three days and at Robbies Bar & Bistro at South Dunedin and Bar 25, New Brighton, for two days.

### GAMBLING COMPLIANCE KEY CONTACTS

0800 257 887

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December 2003 – September 2009  
available on [www.dia.govt.nz](http://www.dia.govt.nz)

## PUBS AND CLUBS

### Kiwi Trust – minimum return must be met

In the Kiwi Community Trust Appeal decision, the Commission said the return of a society's proceeds to the community is the underpinning policy justification for permitting Class 4 gambling.

The Department told the Commission that through accumulated breaches of Regulation 10 of the Gambling (Class 4 Net Proceeds) Regulations 2004, which deals with the minimum to be distributed for authorised purposes, Kiwi owed the community \$1.1 million. The fundamental problem was that its cost structure was too high to enable its legal obligations to be met in five of the six years between 2003 and 2009.

In the six years, Kiwi's gaming machine operation generated \$7.4 million. It was legally required to return at least \$2.7 million to the community in grants but paid only \$1.6 million. The \$1.1 million difference was either used to pay operating costs or was retained.

The Commission said: "The Trust seems to have treated Regulation 10 as if it were merely a target, something to aim for but of no real concern if missed. The Commission takes a different view. One of the effects of Regulation 10 is to make the distribution of 37.12 per cent of the gross proceeds in a financial year a first, not last, priority. Because the minimum percentage must be distributed it is not available for other purposes. In the view of the Commission, the use of any part of the 37.12 per cent minimum distribution to meet expenditure on costs produces amounts improperly paid,

which are potentially the subject of an application (for recovery) under Section 112.

"Class 4 operators are not entitled to use any of the minimum percentage of net proceeds required for distribution for authorised purposes to meet other expenses."

Nor are they able to meet the Regulation 10 requirement – to distribute at least 37.12 per cent of net proceeds – in a later year by using funds retained from an earlier year. Net proceeds retained in breach of Regulation 11 remain attributable to the year in which they are generated and the licence holder remains liable under Regulation 11 to distribute them.

The Commission was not satisfied that the Trust's purpose in conducting Class 4 gambling was to raise money for authorised purposes, as required by Section 52 (1) (b), as distributions had the lowest priority, behind meeting all the Trust's other financial obligations and even the creation of cash reserves. Nor was the Commission satisfied that the Trust would maximise net proceeds and minimise operating costs under section 52 (1) (d) because it had consistently failed to produce even the minimum net proceeds distribution.

The Department is actively monitoring distribution requirements and intervening when societies breach their minimum return and distribution requirements.

### Eureka – information must be provided

The Commission agreed with the Department that Eureka's breaches reflected a "systematic disregard of Sections 69 and 71 of the Act and a general culture of tardiness and neglect."

The Commission said it viewed the breaches seriously. The provision of information by a corporate society to the Secretary of Internal Affairs was essential if the Department was to maintain the expected level of oversight over Class 4 gambling.

"In the Commission's view, such breaches should have punitive consequences to provide a deterrent to Eureka and other corporate societies to ensure the integrity of the control and supervision of Class 4 gambling," the Commission said. "The Commission is concerned to see the Trust suggesting that Class 4 licence holders had some expectation that

non-compliance would have no real consequences unless preceded by general public statements about enforcement of policy changes, or a formal warning had been given in respect of current breaches.

"The Commission wishes to make it clear that non-trivial breaches of statutory and licence requirements should have real consequences and that there should be no expectation that they will be imposed only after general or formal warnings. Operators should not be surprised if even longer suspensions are imposed in the future."

## Take legal obligations seriously

The Gambling Commission's decision to suspend Eureka Trust gaming machine venue licences for breaches of Sections 69 and 71 of the Gambling Act 2003 sends an important message to all societies that their obligations to notify the Secretary of changes in relation to venues must be taken seriously.

The Commission affirmed that the provision of information is essential if the Department is to maintain the expected level of oversight over Class 4 gambling.

Societies are obliged to notify the Department and provide details, before, or as soon as practicable after:

- a venue key person is convicted of a relevant offence, is placed in receivership, goes into liquidation, is adjudged bankrupt, or breaches a rule of racing
- a venue manager ceases to be the venue manager or is incapable of performing their duties
- a venue operator changes
- the nature of the Class 4 venue changes or if gambling is not conducted at the venue for more than four weeks (as per Section 71)
- there are changes to the postal address and/or phone number of a venue operator and/or venue manager
- there is a substantive change to a venue agreement (as per Licence Condition 3).

Notification can be by email, telephone or letter, with completed documentation following as soon as possible afterwards. This information should be conveyed directly to a society's contact Licensing Inspector (see page 14 for details).

A number of the Eureka suspensions were for failure to notify a change in venue manager. The Act is clear about the responsibilities of a venue manager. If a venue manager is no longer able to perform those duties<sup>1</sup> - for example, they leave the position or are on an extended period of leave - then the Department needs to be advised of this and also of who the new venue manager is. A temporary or interim venue manager may be organised to cover a venue manager on extended

leave, or if there is an issue with recruiting a permanent venue manager. If this occurs, the Department must be notified. A venue manager is a fundamental requirement of a venue licence and a venue must not operate gaming machines without one.

The Eureka decision dealt specifically with venue agreement expiry dates. The Act requires the Department to approve the "form and content" of venue agreements (Section 69). This includes approving the agreement's expiry date. The decision clearly reinforces the requirement to provide the Secretary with the new venue agreement when an agreement is entered into following the expiry of the previous agreement (even if otherwise identical to the previous agreement). Similarly, where an expiry date is changed or the venue costs schedule is changed, then this is a substantive change to the venue agreement and the Department must be notified. These requirements ensure that the Secretary always has an up-to-date copy of venue agreements on record.

Societies are also reminded that the requirements in Section 67 are ongoing. If satisfied that the grounds for licensing a society in Section 67 are no longer being met, then the Secretary may suspend or cancel the venue licence. When deciding to suspend or cancel a venue licence, the Secretary will consider the guidance provided by the Commission in the Eureka decision.

"The Commission wishes to make it clear that non-trivial breaches of statutory and licence requirements should have real consequences and that there should be no expectation that they will be imposed only after general or formal warnings. Operators should not be surprised if even longer suspensions are imposed in the future."

<sup>1</sup>see Gambits June 2009 for information on venue managers' duties

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## PUBS AND CLUBS

### Warning on Calcuttas and sweepstakes

The Melbourne Cup and other major race meetings on both sides of the Tasman are looming and the Department advises societies wanting to run a Calcutta that they must hold a licence for this activity if the forecast total value of the prize pool exceeds \$5000.

An illegal, unlicensed Calcutta was shut down by Christchurch gambling inspectors in November 2008.

If a society is successfully prosecuted for illegal gambling, the proceeds of the gambling will be forfeited and future applications involving the society or individuals concerned may also be affected.

A Calcutta is a prize competition and the rules for running a gambling activity can be found on our website [www.dia.govt.nz](http://www.dia.govt.nz) or by phoning 0800 257 887.

#### Melbourne Cup sweeps

For those wanting to run an office sweep the advice is simple – keep it small, keep it simple and avoid the risk of problems.

Under the Gambling Act 2003, sweepstakes are a form of Class 1 gambling that can be conducted when:

- The total value of all the prizes offered is no more than \$500. This means that the number of horses

running will determine how much can be charged for each ticket. If there are 24 horses running, then tickets can be sold for up to \$20.83 each

- All of the money is returned as prizes
- No one is paid to run the sweepstake
- Sweepstakes are intended to be small-scale gambling with simple rules.

The rules are mostly to help protect employers, clubs and staff. If large amounts of cash are being gambled then you need much tighter controls to keep track of the money and prevent it going astray or causing embarrassing arguments.

If people want to place larger bets on the Cup then there are other legal ways of doing that outside of office sweepstakes.

People can run more than one sweepstake at the same office or club but they must keep the money from each one separate. Each sweepstake must pay its own prizes and the total value of all prizes in each sweepstake must not exceed \$500.

### New late banking policy

The Department is in the process of introducing a new late banking policy that will be explained to the sector in a series of forums in Auckland, Wellington, Christchurch and Dunedin in late September.

Invitations to the forums are being sent to societies along with an overview of the new policy. Some societies have been reluctant to take action against venues that consistently bank gaming machine profit (GMP) late. The Department's focus in such cases has been primarily on the non-compliance of venues rather than societies' responsibilities and obligations to ensure compliance in this area. The Department recently reviewed its compliance approach on late banking of GMP.

The new policy still has a focus on ensuring venues comply with the banking requirements, but there will be increased accountability required of societies to ensure they meet their legislative requirements under the Gambling Act 2003. The regional forums will also enable the Department to discuss other compliance and educational initiatives.

*(see Courts rule on late banking, page 10)*

#### GAMBLING COMPLIANCE KEY CONTACTS

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## Trustees' responsibilities highlighted

Trustees and directors of gaming machine societies need to be aware that they are responsible for ensuring they act in accordance with the purposes and objects outlined in their governing documents.

The Department has recently reviewed the governing documents of all non-club societies licensed to operate Class 4 gambling to compare each society's objects with the authorised purposes specified on its licence. We have written to all those societies where we have identified inconsistencies between the governing documents and the authorised purposes, and asked that societies consider their options for amending the inconsistencies.

Charitable purpose has a special meaning in law. It may include some purposes the public would not consider to be charitable and it may exclude other purposes the public would consider to be charitable.

Charitable purpose generally means:

- the relief of poverty
- the advancement of education
- the advancement of religion
- any other matter beneficial to the community (not falling under the previous headings).

Not all purposes that benefit the community are recognised as charitable. Charitable purposes are a subset of authorised purposes. Authorised purposes, as defined in the Gambling Act, encompass a much broader range of purposes that are beneficial to the community.

This is not a new definition but was highlighted recently by the High Court decision involving the *Travis Trust v Charities Commission*. The case confirmed that the promotion of horse racing is not a charitable purpose.

The case law summarised in the judgment also referred to amateur sport as not being a charitable purpose in and of itself. However, sport can be the means by which charitable purposes are carried out. The Department recommends that societies read the discussion of charitable purposes as it relates to sport and recreation organisations on the Charities Commission website, [www.charities.govt.nz](http://www.charities.govt.nz)

## Venue operator and manager details requested

The Gambling Commission's decision on the Eureka Trust appeal was the catalyst for the Department to request information from the sector under Section 333 (1) (a) & (b) of the Gambling Act 2003.

Each society has been requested to provide a list of all current Class 4 gambling venues showing:

- Venue name
- Name of current venue operator
- When they took over the business
- Name of current venue manager
- When they took over as venue manager
- When notification of each of the above changes was made to the Secretary
- How each notification was made and to whom was the notification provided.

Copies of each of these notifications may be requested if there is ambiguity between the information the Department and the society hold.

Once the information has been received, the Department will compare it with the information it holds. If a society has not notified us of these changes in accordance with the Act, a suspension of the relevant venue licence may be imposed on the society.

## Daylight saving

Daylight saving begins on Sunday 27 September, when clocks go forward an hour at 2.00am to become 3.00am.

The extra hour of daylight in the evenings will run till Sunday 4 April 2010, when clocks go back an hour at 3 a.m. to 2 a.m. New Zealand moved to an extended period of daylight saving in 2007.

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## PUBS AND CLUBS

### Club authorised purpose expenditure

Clubs must be careful when using gaming machine funds to purchase goods or services for the club.

The use of these funds for club premises and facilities generally comes under the heading of:

“A non-commercial purpose that is beneficial to the whole of the community or a section of the community”.

This is paragraph (a) (ii) of the definition of authorised purpose (AP) in Section 4 of the Gambling Act 2003. A club will usually have a paragraph in its own licence AP statement that allows for the provision of club buildings, furniture, fittings, facilities, grounds and renovations. The wording may vary but bar facilities and the purchase of liquor are always excluded.

A club must ensure that it gets good value for its expenditure of gaming machine funds. The club should obtain quotes for work to be carried out unless the cost is minimal.

A club must exercise special care when it enters into a contract with a club member especially an office holder. The club must ensure that the contract price is fair and equal to or less than would be payable on the open market.

If the club gives a contract to a club member at an above-market price, that breaches the principle that it must not give a commercial benefit to a club member. If the contract price exceeds a fair market price, the excess expenditure will not qualify as an authorised purpose. The excess payment will

not be an authorised purpose as it will no longer be for a “non-commercial purpose” as stated in the definition. The same approach must be applied to any contractor if the price is above a fair market figure.

That kind of excess expenditure would breach Section 106 of the Gambling Act, which provides that a corporate society (this includes clubs) must apply net proceeds only for an authorised purpose.

A conviction under that section would result in the cancellation of the club’s Class 4 operator’s and venue licence. There is **no appeal** to the Gambling Commission against a cancellation of the licences following conviction under section 106.

The club would also have to take steps to recover the excess payment from the contractor. If the club did not recover the excess amount from the contractor, the Secretary of Internal Affairs has the power to apply to the court for an order to recover net proceeds that have been improperly paid to a person.

In addition the club would risk losing its status as a “society” under the Act on the basis that it is no longer being conducted entirely for non-commercial purposes. This could result in the club losing its Class 4 licences and any Class 3 lottery licences. Unless the club is a society, it cannot conduct gambling activities even at Class 1 or 2 level.

The Department could also consider suspending the club’s licence until the club recovers the excess amount from the contractor.

### Seed and signature verification explained

The onus is on clubs, societies, manufacturers and service companies to ensure gaming machines run correctly installed, licensed software.

The Department’s electronic monitoring system (EMS) can disable any Class 4 gaming machine that is running incorrect or unlicensed software.

When a gaming machine is switched on, EMS automatically sends it an eight-digit number, known as a ‘seed’. The gaming machine must respond by calculating and returning the correct value, or signature, to the EMS. The EMS compares the signature received from the gaming machine against the one it keeps internally. If both values

match, the gaming machine is allowed to continue its normal operation.

If they don’t match, the EMS will set off an alarm and the gaming machine will be disabled immediately. It may be restarted manually only after the incident is reported to the EMS Help Desk and investigated.

This simplified daily process helps ensure that any faults or non-authorised changes to gaming machines are identified and investigated quickly.

## Recording cash transactions

Requirements for cash handling and recording at venues are set out comprehensively in the Gambling Act (Class 4) Game Rules 2006. The Department provides a set of standard forms to enable these to be met. These forms and processes have evolved as gaming machine technology and operations developed and the need for accountability in specific areas increased.

The Gambling Act clearly envisaged the need for, and empowers the Secretary to make, amend and revoke rules “for the systems, processes, information and documentation to be associated with particular games, categories, classes or forms of gambling”.

In addition to the Class 4 Game Rules and standard forms, electronic monitoring (EMS) provides sufficient basic data to materially assist venues in daily cash reconciliation. It is also a requirement that EMS is used to determine venue GMP banking.

Some societies and/or venues have chosen to employ third party venue management or cash reconciliation systems. These are an optional extra and while they may enhance the ability of venues/societies to keep track of their gaming machine proceeds, they should not be regarded as substitutes for the systems, processes and documentation required by the Game Rules (except to the extent that Game Rule 24 permits their use to generate certain required reports, subject to a number of conditions).

Societies should be aware that the costs for the alternative systems may not qualify as “actual, reasonable or necessary” expenses.

Unfortunately, some societies believe that because they

have these systems, Game Rules and EMS are of secondary or no importance. Societies must ensure that each venue complies with the Game Rules and uses the standard forms.

Irrespective of the suitability, need, or cost-effectiveness of these systems, Game Rules require gaming machine related cash transaction records to be completed fully:

- At the time of the transaction
- By the person(s) concerned
- On the standard form specified for the particular purpose.

This provides the basis for a clear audit trail.

By following these procedures, which invariably require current, relevant gaming machine meter reading(s) and/or jackpot information to be recorded, venue staff are in a position to identify immediately any discrepancies or anomalies that might not otherwise be apparent until and unless a full reconciliation is carried out. This is a fundamental part of prudent gaming machine accounting, given the large amounts of money handled daily at most venues and the relatively easy access to untraceable amounts of ready cash. There is also the constant possibility of genuine errors or equipment malfunctions causing significant cash imbalances.

## Compliance action recognised

The Department took the initiative and removed a licence condition from a Wellington venue after a gambling inspector discovered it was no longer required.

The inspector visited The Quiet Lady pub in Karori after receiving information that, contrary to a licence condition, a door allowing unsupervised access into the gaming room was always open and being used by patrons. He discovered that the venue had changed its layout since the condition was imposed. Bar staff now have a clear line of sight to identify people using the entrance and ensure they are over 18.

The Department is pleased to be able to recognise where a venue has taken action to become compliant. The Gambling Commission has previously backed the Department’s firm line against unsupervised access to gambling areas that could allow under-18s and problem gamblers to play the gaming machines.

## PUBS AND CLUBS

### Disposal of gaming machines

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The Department has noted that some corporate societies are still failing to comply with Section 83 of the Gambling Act 2003, which requires the corporate society to provide the Department with certain details when disposing of gaming machines.

The holder of a Class 4 operator's licence must provide the means of disposal as well as the name and contact details of the acquirer within 20 working days of the date of disposal of a gaming machine.

This includes disposal by means of trading-in the machines to a manufacturer or distributor. This information should be addressed to the Gambling Licensing Unit. Any Class 4 operator that fails to comply with this requirement is liable, on summary conviction, to a fine not exceeding \$5000.

### QCOM upgrade

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During the first quarter of 2010 the Department plans to upgrade the electronic monitoring (EMS) QCOM protocol to its latest version (1.6) to keep it aligned with Australian jurisdictions.

This upgrade will be transparent to users and it will not affect the operation of installed gaming machines.

Societies and venues that use the electronic meter access (EMA) application are advised they will need to download a new version of the EMA application for correct operation at the time of upgrade.

### Pokie money propped up hotel

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An Auckland accountant who used almost half a million dollars of gaming machine profit to prop up a hotel business was sentenced to 10 months home detention and 100 hours community work in the Manukau District Court.

Ian Hamish McElwee, aged 64, pleaded guilty to a charge of theft by a person in a special relationship of \$463,736.50 belonging to the Sentinel Community Trust, which operated 18 gaming machines at the Huntly Hotel. The Department cancelled the Trust's operator's and venue licences in November 2005 and it is now in receivership and liquidation.

McElwee took effective control of the Huntly Hotel in 2003 and set up a labyrinth of deception to hide his involvement. His accountancy firm provided management services to the trust.

Over 12 months McElwee failed on 27 occasions to bank a total of \$463,736.50 but banked the correct GMP 27 other times, suggesting he was using profits generated later to cover the banking of money due earlier. The money did not benefit McElwee directly but the theft helped avoid the hotel business going to the wall sooner.

Because McElwee had effectively hidden his involvement with the Huntly Hotel, the Department initially charged someone else with the theft. It was only after depositions and pretrial argument and immediately prior to trial that Ian McElwee came forward and indicated he was the true offender.

Judge Jane Lovell-Smith agreed with the Crown sentencing submission of a starting point of four years imprisonment discounted by 50 per cent for a guilty plea and co-operation with the Department. She also noted McElwee's previous good character, poor health, age and 20 years' service in the Territorial Army, rising to the rank of Major.

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## PIDs deadline achieved

There was an almost 100 per cent take-up of gaming machine player information displays (PIDs) by the 1 July deadline.

Despite suggestions from the sector that the deadline could not be achieved in time and that many venues would drop out, over 99 per cent of all machines were licensed by that date to run PIDs software.

PIDs were required to be installed on all electronic gaming machines, both casino and non-casino, in New Zealand by 1 July 2009. The displays ensure players are kept informed of their losses and wins, duration of play and are prompted to take breaks from play.

Only 116 out of 19,500 machines were not brought into the PIDs environment. Some of these machines were known to be obsolete and will be replaced by new PIDs-compliant machines.

The Department worked closely with Intralot, manufacturers and service providers to ensure the optimal result was achieved on 1 July 2009 and, due to the efforts of many, the Department had accurate and detailed records of all PIDs capable and non-compliant gaming machine software by the critical date.

## Maximise community funding – Minister

The new Minister of Internal Affairs, Nathan Guy, is keen to hear how the gaming machine sector can maximise grants to the community in these financially uncertain times.

Addressing the Licensing Trust Association, Mr Guy said large corporates were likely to reduce donations and sponsorships, so allocating grants better through outcome-based funding would be important to supporting communities.

While the government had yet to make any specific decisions about the future direction of gambling policy in New Zealand, he said it had already identified two high-level priorities for non-casino gaming machines – maximising community funding from them and resolving “questionable funding practices” in the sector.

Mr Guy said there were deep concerns within the community about how present arrangements were working, leading to a loss of confidence in the distribution framework.

Some societies were acting like corporate sponsors including:

- horse races named after the society
- the society’s name on sports billboards, score boards or equipment
- access to corporate boxes
- invitations to attend events.

“The issue that arises here is whether societies end up giving money mainly to those community groups that can give them fringe benefits,” he said. “I understand that there have also been examples of the inappropriate use of gaming machine funding for individual sports professionals and professional sports teams.

“Maximising funds for the community does not seem to be the focus. Increasingly competitive behaviour appears to be encouraging rorts, and disagreements within the sector mean that internal mechanisms are not resulting in voluntary compliance.”

Mr Guy said he supported the Department’s approach to eliminate rorts, increased returns to the community and ensure greater integrity within the sector.

“I will be listening carefully to the views of the wider community and the sector while considering other possible ways of addressing the critical issues,” Mr Guy said.

“In the meantime, I encourage everyone involved with gaming machines to reflect on that fact that the community is our most important stakeholder.”

## SANCTIONS

### Courts rule on late banking

Another reserved court decision has focused on venue managers' responsibilities to bank gaming machine profits (GMP).

Judge S A Thorburn in the Manukau District Court said a "venue manager's obligation to attend to the banking after the electronic sweep, is an obligation of strict liability in law".

He issued his ruling in finding Anthony Charles Leathers, venue manager of Papakura, guilty of two charges of failing to bank GMP of over \$97,000 for Trillian Trust. Leathers was venue manager for Good Old Boys Investments Ltd, which operated gaming machines for the Trust at a Great South Road, Manukau, venue known over time as Silo Bar and Grill, The Toad Manukau, The Horney Toad and Chilli's Restaurant and Bar.

Judge Thorburn fined Leathers \$5500 plus costs of \$130.

The June 2009 issue of Gambits reported that Judge D J McDonald in the Kaikohe District Court had confirmed the Department's legal authority to issue infringement notices under Section 104 of the Gambling Act. He made the ruling after venue operator, Raymond Edward Biggs, became the first publican to dispute liability for late banking and requested a full defended hearing in respect of an infringement notice under s104.

Judge McDonald subsequently fined Biggs \$3000 plus \$130 costs – \$630 more than the original infringement notice the Department issued.

### Betting site pays the price

A company that established an internet betting site for New Zealand horse races was fined \$1500 in the Auckland District Court after pleading guilty to publishing an overseas gambling advertisement.

Race-O New Zealand Services Ltd established the site in February 2007 with two guaranteed \$1 million jackpots, but it closed within days of its launch after the Department of Internal Affairs mounted an investigation following complaints about its legality.

The Race-O site was registered in Costa Rica and licensed by the Kahnawake Indian nation in Canada. The Gambling Act 2003 prohibits the advertising and promotion of overseas-based online gambling.

The advertisement in this case was a media release indicating that the launch of Race-O NZ would be programmed to coincide with race meetings at Matamata and Ellerslie.

The Department's Gambling Compliance Director, Mike Hill, said the Gambling Act 2003 prohibits operators providing "remote interactive gambling" unless specifically exempted, which the Lotteries Commission and the TAB are.

"It is illegal for anyone based or partly based in New Zealand to advertise or promote overseas gambling, or to bring overseas gambling to the attention

of the public in any way," he said. "This provision is intended to discourage gambling on overseas-based websites, over which New Zealand has no jurisdiction.

"The Lotteries Commission and the TAB provide New Zealanders with regulated alternatives to the multitude of online gambling products offered by overseas-based gambling operators and the benefits remain in New Zealand through the payment of profits to the community and taxes."

**"It is illegal for anyone based or partly based in New Zealand to advertise or promote overseas gambling, or to bring overseas gambling to the attention of the public in any way"**

Mike Hill, Gambling Compliance Director.

## TV3 and C4 prosecuted over poker series

TVWorks Ltd has pleaded not guilty to 25 charges under the Gambling Act 2003 for advertising overseas gambling on TV3 and C4. A defended hearing has been scheduled in the Auckland District Court for 22 February next year.

The charges laid by the Department involve television advertisements and the programme "Celebrity Joker Poker", televised on TV3 and C4 between 22 April 2007 and 25 May 2008.

While New Zealanders are not prohibited from gambling on an overseas website, Section 16 of the Act makes it an offence to publish or arrange to publish in New Zealand an overseas gambling advertisement and carries a maximum penalty of \$10,000. Section 4 of the Gambling Act defines an overseas gambling advertisement as a form of communication that: (a) publicises or promotes gambling that is outside New Zealand, or a gambling operator who is outside New Zealand; or (b) is reasonably likely to induce persons to gamble outside New Zealand.

Internal Affairs Gambling Compliance Director, Mike Hill, said the advertisements, featuring professional poker players, encouraged viewers to practise playing poker for free by going to a website, [www.pokerstars.net](http://www.pokerstars.net). This also appeared as a table logo in the Celebrity Joker Poker TV show. But there was another website, [www.pokerstars.com](http://www.pokerstars.com), identical in appearance and functionality to the .net website.

"And a Google search for PokerStars led only to [pokerstars.com](http://pokerstars.com)," Mike Hill said. "The .com website, which operates outside New Zealand, is a website on which a person can gamble within the meaning of the Gambling Act.

"The two websites, .net and .com, are so similar, the Department alleges that in advertising [pokerstars.net](http://pokerstars.net) the TV channels either publicised or promoted a gambling operator, who was outside New Zealand, or it was reasonably likely to induce persons to gamble outside New Zealand."

## Pleas changed after evidence

Two business partners in a failed Palmerston North venue have been sentenced over missing gaming machine proceeds and late banking.

Michelle Brown and Diane Sefton ran 'Live at the Break' in King Street with gaming machines for Century Foundation. Brown pleaded guilty to three offences of theft totalling \$34,098.30 and was sentenced to 250 hours community service. Sefton pleaded guilty to three late banking offences and was fined \$1500 with \$130 court costs.

The offences occurred in 2006. The defendants opted for a defended hearing, which took place this month, but after two days of evidence they changed their pleas to guilty.

## Convicted for running gambling shop

Pockets 8 Ball Club has pleaded guilty in the Rotorua District Court to running what was essentially a gambling shop in Rotorua's former Legends Bar, Hinemoa Street.

The club was convicted and discharged on one charge of conducting illegal gambling on donating over \$11,600 to the Salvation Army.

The club said that pool was its primary activity but it operated gaming machines when pool tables were unavailable. Pool accounted for only 4.4 per cent of its income with 87 per cent coming from gaming machines.

### GAMBLING COMPLIANCE KEY CONTACTS

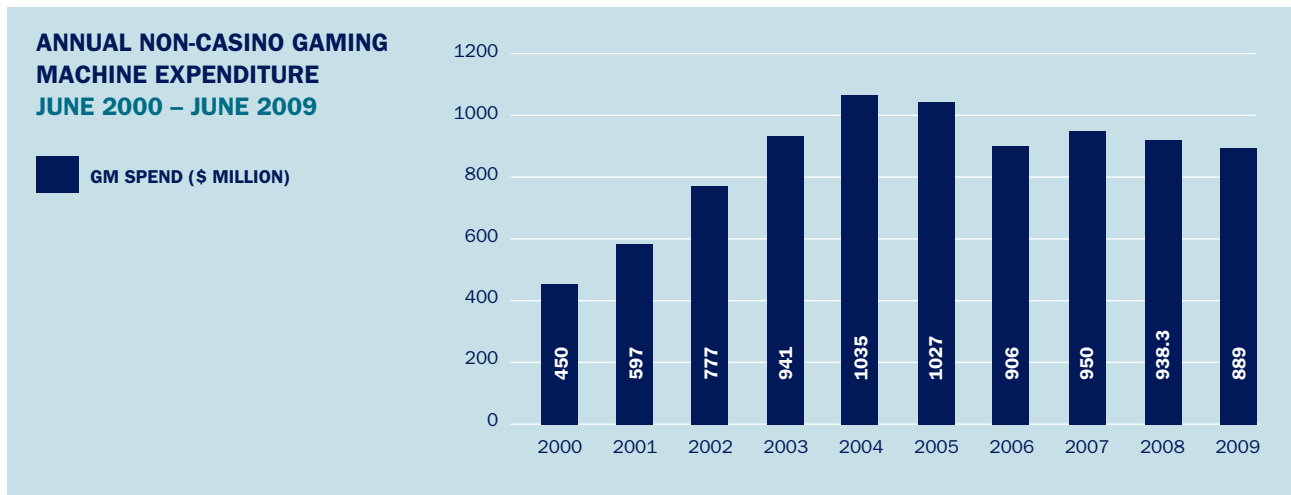
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## MEDIA RELEASES

## Annual pokie spend drops 5.3 per cent

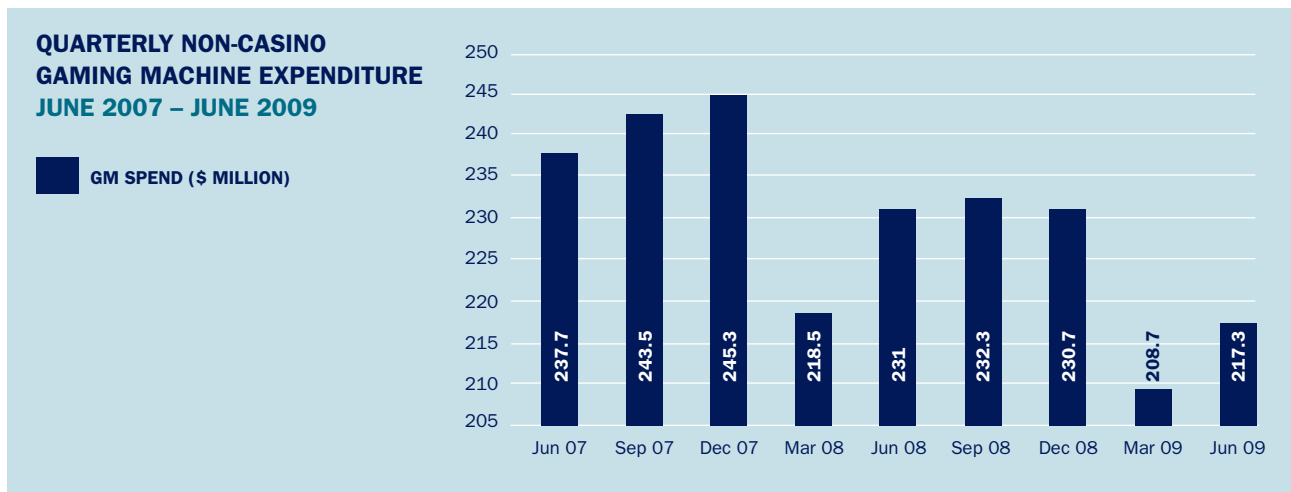
July 2009

Gaming machine expenditure in the country's 1500 pubs and clubs in 2008-2009 was 5.3 per cent lower than the previous year, according to figures released by the Department of Internal Affairs. Spending dropped from \$938.3 million in the 12 months ended 30 June 2008 to \$889 million at 30 June 2009, the lowest outturn since 2001-02 (estimated at \$777 million).



There were also fewer licence holders, gambling venues and gaming machines at the end of June 2009 compared with 12 months earlier. Licence holders fell 7.5 per cent from 415 to 384, venues dropped 3.3 per cent from 1552 to 1501 and gaming machines were down 1.9 per cent from 19,856 to 19,479.

However expenditure in the **three** months to 30 June 2009 rose 4 per cent to \$217.3 million from \$208.7 million in the first quarter of 2009.



## MEDIA RELEASES

The spending is captured through the electronic monitoring of non-casino gaming machines (EMS), which became fully operational in March 2007, enabling the Department to track and monitor operations, ensure the integrity of games and the accurate accounting of money.

### NON-CASINO GM SPENDING BY SOCIETY TYPE – APRIL TO JUNE 2009

SOCIETY TYPE	TOTAL GMP QUARTER	% OF TOTAL
<b>NON-CLUB</b>	<b>\$186,889,129.77</b>	<b>86.0%</b>
Sports Clubs	\$4,770,744.70	2.2%
Chartered Clubs	\$17,155,993.38	7.9%
RSAs	\$8,506,713.01	3.9%
<b>TOTAL CLUB</b>	<b>\$30,433,451.09</b>	<b>14.0%</b>
<b>TOTAL ALL</b>	<b>\$217,322,580.86</b>	<b>100.0%</b>

### LICENSED GAMBLING OPERATIONS IN PUBS AND CLUBS

DATE	LICENCE HOLDERS	VENUES	GAMING MACHINES
30 June 2009	384	1501	19,479
31 March 2009	394	1527	19,739
31 Dec 2008	399	1537	19,879
30 Sept 2008	405	1551	20,025
30 June 2008	415	1552	19,856
31 March 2008	421	1569	20,018
31 Dec 2007	428	1585	20,182
30 Sept 2007	435	1593	20,163
30 June 2007	439	1598	20,120
31 March 2007	444	1607	20,302

Further information, including numbers of venues, machines and expenditure by territorial authority and changes in the quarter, is available from the Department's Gaming Statistics web page at: [www.dia.govt.nz](http://www.dia.govt.nz)

### Gambits' Editor is Trevor Henry.

If you have any questions about articles in Gambits, would like further information or have comments about what information we could provide to make Gambits more useful to you, please contact: Trevor Henry

Ph: (04) 495 7211 or 0275 843 679

E-mail: [trevor.henry@dia.govt.nz](mailto:trevor.henry@dia.govt.nz)

## MEDIA RELEASES

# GM societies' contacts

The Department's gambling compliance and licensing inspectors each have responsibilities for liaising with gaming machine societies. If societies have issues to discuss, they may contact these inspectors first by phoning the Department's toll free number 0800 257 887.

APPLICANT	COMPLIANCE INSPECTOR	LICENSING INSPECTOR
AHAURA/GREY VALLEY LIONS CLUB INC	Lisa Barclay ext 7031	Rochelle Goodwin-Kanara ext 5350
AIR RESCUE SERVICES LIMITED	Lisa Barclay ext 7031	Craig Holmes ext 5486
ASHBURTON TRUST CHARITABLE FOUNDATION	Greg Clark ext 7036	Jasmine Rangiwetu ext 5491
AUCKLAND BOWLS TRUST	Scott Carsons ext 7920	Jasmine Rangiwetu ext 5491
BULLER COMMUNITY DEVELOPMENT COMPANY LIMITED	Mark Thomson ext 7341	Craig Holmes ext 5486
CAVERSHAM FOUNDATION LIMITED	Ron Grob ext 6603	Craig Holmes ext 5486
CONSTELLATION COMMUNITIES TRUST INC	Scott Carsons ext 7920	Jasmine Rangiwetu ext 5491
CUESPORTS FOUNDATION LIMITED	John Hennebry ext 7939	Jasmine Rangiwetu ext 5491
ENDEAVOUR COMMUNITY TRUST	Garth Cherrington ext 5520	Judy Rohloff ext 5466
EUREKA TRUST	Mark Thomson ext 7341	Judy Rohloff ext 5466
FIRST SOVEREIGN TRUST	Cliff Simpson ext 7937	Rochelle Goodwin-Kanara ext 5350
FOUR WINDS FOUNDATION LIMITED	David Batenburg ext 7922	Rochelle Goodwin-Kanara ext 5350
GRASSROOTS TRUST	Stephen Balmer ext 7923	Judy Rohloff ext 5466
HOROWHENUA COMMUNITY TRUST LIMITED	Dave Sayers ext 5484	Rochelle Goodwin-Kanara ext 5350
HUCKLEBERRYS SPORTS & CHARITABLE SOCIETY INC	Peter O'Reilly ext 55569	Jasmine Rangiwetu ext 5491
ILT FOUNDATION	Dave Macdonald x 7035	Rochelle Goodwin-Kanara ext 5350
INFINITY FOUNDATION LTD	Val Hawley ext 5614	Rochelle Goodwin-Kanara ext 5350
KAIWAKA SPORTS ASSOCIATION INCORPORATED	Dave Batenburg ext 7922	Rochelle Goodwin-Kanara ext 5350
LIONS CLUB OF OHAI-NIGHTCAPS INCORPORATED	Dave Macdonald ext 7035	Craig Holmes ext 5486
MAINLAND FOUNDATION LIMITED	Greg Clark ext 7036	Judy Rohloff ext 5466
MANA COMMUNITY GRANTS FOUNDATION	Garth Cherrington ext 5520	Rochelle Goodwin-Kanara ext 5350
MANUKAU COUNTIES COMMUNITY FACILITIES CHARITABLE TRUST	Scott Carsons ext 7920	Rochelle Goodwin-Kanara ext 5350
MT WELLINGTON FOUNDATION LTD	David Batenburg ext 7922	Rochelle Goodwin-Kanara ext 5350
NEW ZEALAND COMMUNITY TRUST	Daryl Watene ext 5667	Rochelle Goodwin-Kanara ext 5350
OTAUTAU COMBINED SPORTS COMPLEX INCORPORATED	Dave Macdonald ext 7035	Craig Holmes ext 5486
OXFORD SPORTS TRUST INC	David Batenburg ext 7922	Niall Miller ext 5485
PACIFIC SPORTS & COMMUNITY TRUST	Cliff Simpson ext 7937	Jasmine Rangiwetu ext 5491
PELORUS TRUST	Daryl Watene ext 5667	Rochelle Goodwin-Kanara ext 5350
PERRY FOUNDATION LIMITED	Stephen Balmer ext 7923	Judy Rohloff ext 5466
PERRY FOUNDATION TRUST	Stephen Balmer ext 7923	Judy Rohloff ext 5466
PRIME COMMUNITY TRUST	Daryl Watene ext 5667	Niall Miller ext 5485
PRODUCERS TRUST INC	Scott Carsons ext 7920	Craig Holmes ext 5486
PUB CHARITY	Val Hawley ext 5614	Niall Miller ext 5485
REDWOOD TRUST INCORPORATED	Dave Macdonald ext 7035	Rochelle Goodwin-Kanara ext 5350
SOUTHERN VICTORIAN CHARITABLE TRUST INC	Nicole Turvey ext 6611	Niall Miller ext 5485
ST KILDA COMMUNITY SPORTS SOCIETY	Jason Hewitt ext 6601	Rochelle Goodwin-Kanara ext 5350
THE BENDIGO VALLEY SPORTS AND CHARITY FOUNDATION	Jason Hewitt ext 6601	Jasmine Rangiwetu ext 5491
THE BRUNNER RUGBY LEAGUE CLUB INCORPORATED	Mark Thomson ext 7341	Rochelle Goodwin-Kanara ext 5350
THE LION FOUNDATION	John Hennebry ext 7939	Craig Holmes ext 5486
THE NORTH & SOUTH TRUST	Scott Carsons ext 7920	Craig Holmes ext 5486
THE RUNANGA COMMUNITY SWIMMING POOL TRUST	Dave Bermingham ext 7034	Jasmine Rangiwetu ext 5491
THE SOUTHERN TRUST	Dave Bermingham ext 7034	Rochelle Goodwin-Kanara ext 5350
THE TRUSTS CHARITABLE FOUNDATION INCORPORATED	Lisa Barclay ext 7031	Niall Miller ext 5485
TRILLIAN TRUST	Lance Daly ext 7921	Craig Holmes ext 5486
TRUST AORAKI LIMITED	Greg Clark ext 7036	Jasmine Rangiwetu ext 5491
TRUST HOUSE CHARITABLE TRUST	Peter O'Reilly ext 55569	Craig Holmes ext 5486
WATER SAFETY EDUCATION FOUNDATION	Garth Cherrington ext 5520	Judy Rohloff ext 5466
WHITEHOUSE TAVERN TRUST	Cliff Simpson ext 7937	Craig Holmes ext 5486
YOUTHTOWN INCORPORATED	Lance Daly ext 7921	Judy Rohloff ext 5466

## GAMBLING ISSUES KEY CONTACTS

0800 257 887

**Keith Manch**

Deputy Secretary, Regulation and Compliance Branch

The Regulation and Compliance Branch encompasses all the roles where the Department is, in effect, the regulator of a sector of the economy.

In addition to gambling, this includes censorship and anti-spam compliance, fire service policy, identity services policy, civil defence and emergency management policy and crown entity monitoring functions. For the sake of simplicity, the functions outside the gambling sector are not included on this page.

For gambling regulation this includes the management of Gambling, Censorship and Racing Policy and Gambling Compliance.

**John Markland**

Manager Gambling, Racing and Censorship Policy

This team is responsible for policy advice to the Government, especially in relation to Acts and Regulations. This Policy team is in the same branch as the Gambling Inspectors and other Gambling Compliance staff. This means that policy and operational staff can benefit from each other's knowledge and experience.

**Mike Hill**

Director Gambling Compliance

This position is responsible for the Inspectors and other staff working with the gambling sector to bring about compliance with the law. The Director works closely with the Manager Gambling, Racing and Censorship Policy so that there is a constant flow of information between the staff involved in applying the law and those who develop the law.

**Debbie Despard**

National Manager Compliance

This position is primarily responsible for delivering compliance and audit services as well as developing and implementing an integrated compliance strategy.

**John Currie**

National Manager Licensing

This position has prime responsibility for Class 4 Licensing, championing a new electronic licensing regime and management oversight of the Electronic Monitoring system contract with Intralot.

**Michael Cassidy**

National Manager Gaming Technology

This position oversees the technical integrity of gaming issues across casino and all other classes of gambling.

**Heather McShane**

National Manager Operational Policy

Operational policy provides support and advice to the Gambling Inspectors and other staff working in the sector. It develops standards, game rules and other "deemed regulations".

In broad terms, its role is to develop the Department's policies about how the law will be turned into the work done in the field.

**Geoff Owen**

National Manager Investigations

The Investigations Unit is responsible for undertaking significant (complex, cross group, lengthy and sensitive) investigation projects involving criminal, legal and financial issues related to the governance and operation of gaming sector people and organisations. It also provides expertise and support to investigations and audits across the group.

**Sanjay Sewambar**

National Manager Performance Assurance

This unit focuses on ensuring that the Gambling Compliance Group achieves both its strategic objectives (short and long-term) and its business goals. It coordinates strategic and business planning for GCG as well as providing robust analysis, monitoring and reporting around performance.

*Open every day***0800 654 655**

**Gambling  
Helpline**  
NEW ZEALAND

## CONTACTS

All gambling compliance staff can be contacted by phoning the Department's toll free number

**0800 257 887**

E-mail: [gaming.compliance@dia.govt.nz](mailto:gaming.compliance@dia.govt.nz)

Web: [www.dia.govt.nz](http://www.dia.govt.nz)

Postal address and fax numbers:

### CASINO COMPLIANCE

PO Box 805, Wellington 6140, Fax: (04) 494 0624

### GAMBLING LICENSING

PO Box 10-095, Wellington 6140, Fax: (04) 494 0656

### GAMBLING COMPLIANCE

#### Auckland

PO Box 2220, Auckland 1140, Fax: (09) 362 7945

#### Wellington

PO Box 10-095, Wellington 6140, Fax: (04) 495 7214

#### Christchurch

PO Box 1308, Christchurch 8140, Fax: (03) 353 8309

## GAMBITS

The Department of Internal Affairs produces Gambits quarterly. Copies are distributed in March, June, September and December.

Gambits provides information about the Department's recent work and significant issues in the gambling sector.

It is intended for sector organisations and the community in general, to increase understanding of and compliance with the law.

Editor: Trevor Henry

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## Do you want to receive Departmental media releases and Gambits?

If you would like to have your organisation added to the Department's distribution list for media releases about gambling issues, or want to receive Gambits but are not currently on the mailing list, please fill out this form and return it, or e-mail the information to:

Department of Internal Affairs, PO Box 805, Wellington 6140. Communications Advisor Trevor Henry, telephone (04) 495 7211, fax (04) 495 7224, e-mail [trevor.henry@dia.govt.nz](mailto:trevor.henry@dia.govt.nz)

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