

Misuse (Late Banking) of Gaming Machine Profits Policy

Late banking of gaming machine profits (GMP) by a venue manager breaches section 104 of the Gambling Act 2003 and the Gambling (Class 4 Banking) Regulations 2006.

If a venue manager does not bank all GMP within 5 working days beginning on the day that the profits are, or ought to be calculated, then the class 4 operator must take immediate steps to disconnect all gaming machines at the class 4 venue and advise the Department of the disconnection. Furthermore, the gaming machines at the venue must not be reconnected until the GMP has been banked.

The following is the Department's policy in relation to the late banking of GMP by class 4 venues. This policy came into effect on 12 October 2009.

- Societies are to forward all late banking / gaming machine disconnection notifications to a centralised Departmental email address – (LateBanking@dia.govt.nz).
- There is no mandatory requirement to notify the Department, via the above email address, if there have been no instances of late banking at their venues.
- Details relating to individual instances of late banking are to be provided in a standard format (that was conveyed to all class 4 societies in the Department's letter dated 11 September 2009).
- All banking short-falls of GMP are to be reported, except where the short-fall is \$10 or less. Irrespective of whether the short-fall is covered within the "extenuating circumstance" category, details of the late banking will need to be notified to the Department's centralised email address.
- Only one Infringement Notice will be issued for an instance of late banking (the previous late banking policy allowed for two infringement notices to be issued prior to considering a proposal to suspend the venue licence).
- The implementation of a 'clean slate' approach to the process.

The general steps that apply to instances of late banking by venue managers (to which the clean slate approach will apply) are as follows, however, the Department reserves the right to start at any step in the process depending on the circumstances surrounding the late banking breach.

An example of where this would apply is where it was discovered, during an audit, that a society had failed to disconnect gaming machines and notify the Department of instances of late banking. In these circumstances it is very likely that the Department will take a more serious intervention than treating it as a first instance of late banking.

General Steps

1. 1st instance of late banking of GMP - venue manager is issued a warning
2. 2nd instance of late banking - venue manager is issued an Infringement Notice.
3. 3rd instance of late banking - proposal to suspend the venue licence
4. 4th instance of late banking – proposal to cancel the venue licence

The Department expects societies to take the lead in ensuring compliance with section 104 of the Gambling Act 2003 (the Act) through;

- their governance skills in overseeing class 4 gambling at venues.
- the implementation of robust internal guidelines and best practice initiatives to ensure venue managers bank within the required time frame.
- manage the risk concerning the potential deterioration of the compliance profiles of both the society and the venue due to non-compliance in this area.

Clean slate approach

The 'clean slate' approach acknowledges the compliance of venues that have had no instances of late banking within a 6-month period. For example, if a venue receives a warning for its first instance of late banking and then has another instance of late banking 6-months and 2 days after the first instance, the venue receives a further warning and not an Infringement Notice. Essentially, a 6-month period of compliant banking between instances of late banking means the process starts from the beginning.

Irrespective of the fact that this policy came into effect on 12 October 2009, the previous banking history of a venue is still applicable regarding any compliance action. The last instance of late banking will be the starting point for any further compliance action under the new policy.

Extenuating Circumstances

Assessing whether there are any extenuating circumstances is a subjective exercise for the both the society and Departmental staff. It is accepted that there will be occasions where the banking of GMP has not occurred due to the occurrence of events that were beyond the control of the venue manager.

Examples of such events would include, but are not limited to, the following;

- Personal misadventure involving the venue manager
- Serious fire at the venue
- Robbery / burglary / theft involving the loss of GMP

Extenuating circumstances do not include such matters as;

- I forgot
- I was too busy to get to the bank
- The bank was closed by the time I got there

Reimbursement of Intralot fees

As a disincentive for venues to late bank GMP, societies are encouraged to deduct the Intralot disable and enabling fees from the weekly venue payment. A component of the venue payment is for the completion of weekly banking duties and when the venue manager has failed to complete those duties, as required, then the society should be entitled to at least recover that component of the venue payment.

The Department strongly encourages societies to include such a provision in venue agreements in line with their obligation to minimise operating costs and maximising net proceeds.

Venue managers at multi-venues

There are examples in the class 4 sector where an individual venue manager is the also the venue manager at multiple venues. In such circumstances where a proposal to suspend or cancel the venue licence due to the late banking of GMP is under consideration, the venue manager's suitability for all other venues where he/she is also the designated venue manager will also be affected.

The application of the new policy is not venue specific but relates to the overall compliance profile of a venue manager with respect their late banking responsibilities, irrespective of which venue incurred the late banking.

In summary, the Department expects societies to take a lead role in developing best practice initiatives / guidelines to ensure that the requirements of section 104 of the Act, for both the society and the venue manager, are adhered to. Implementing such initiatives will not only negate the risk of compromising your class 4 operator's but also the suitability of key persons at your venues.