

10 December 2008

Venue Expenses: Proposed Licence Condition and the Licensing Process

To achieve better consistency in the sector as to the payment of venue costs and enable the collation of robust data to inform any future amendment to the Gazette Notice, the Licensing Unit will be taking a blanket approach to approving venue costs

The points in the licensing process where venue costs can and will be assessed are:

- Venues transferring to a new society or a new venue licence.
- A change of venue operator.
- The approval of venue agreements for the renewal of a class 4 operator's licence.
- Any changes to the form and content of a venue agreement including the schedule of venue payments.

This approach is consistent with section 69 of the Gambling Act 2003, in which the Department must approve the form and content of venue agreements, which includes an itemised list of costs associated with the operation of class 4 gambling at a venue. Consequently, when there are any changes to the form and content of the originally approved venue agreement then the venue agreement is required to be resubmitted to the Licensing Unit for further approval. This includes changes to the "itemised list of costs associated with the operation of class 4 gambling", during the term of the venue agreement

Further to this, for the Department to be satisfied as to the content of matters such as itemised costs, the Department will require all societies in the above circumstances to submit corroborative documentation to support all itemised venue costs.

This should not be onerous. Regulation 5 of the Gambling (Class 4 Net Proceeds) Regulations 2004 (Duty to keep documents and data) requires the licence holder to retain up to date and accurate documents and data to enable verification of all transactions relating to the conduct of its class 4 gambling. As such, this documentation should already be available or is required to be collated by societies in any event.

The following comments outline the details relating to the aforementioned requirements.

Venues transferring to a new society

Societies will be required to submit hard copies of all documentation to corroborate venue costs related to Limits A, B and C when venues change societies. This is

irrespective of whether there has been an increase, decrease or where the venue payments have remained the same as a result of the transfer.

This process is looking to address a number of concerns by societies that the primary reason for venues changing societies is that the incoming society is prepared to increase the total venue payment over what the venue was receiving from the outgoing society, notwithstanding there have been no changes to the gaming operation.

It is acknowledged there may be some justification for an increase in venue costs where there are changes to the gaming operation at the venue, such as (but not limited to) an increase in the number of gaming machines or opening hours. However, this will need to be evidenced.

It is acceptable for new venues where there is no history of operating gaming machines to use venue costs from a comparable gaming machine operation (e.g. number of gaming machines and similar opening hours) as the basis of reimbursement for a period of no longer than three months. At the conclusion of this period the society must furnish the Licensing Unit with a new itemised list of costs and the associated documentation.

A similar situation applies to a venue with an existing gaming operation where the society views it as being prudent that it assesses costs over a three month period, before settling on what actual, reasonable and necessary costs should apply to the incoming venue.

A change of venue operator

If there is a change of venue operator then the new signed venue agreement with that person (or entity) is required to be submitted to the Licensing Unit for approval. The new venue agreement must also be accompanied by corroborative documentation as to the itemised list costs attached to the venue agreement, irrespective whether there have been any changes or not (e.g. increases, decreases or the status quo).

The receipt of the new venue agreement should occur at the same time as the notification requirement under section 71 of the Gambling Act 2003.

Renewal of a class 4 operator's licence

At renewal time, societies were requested to only provide venue agreements that were renegotiated during the preceding 12-month period prior to the licence renewal date. Until the Department can be assured that it has a complete and evidenced record of the itemised costs associated with any given venue, the new process will require societies to send in all venue agreements and corroborative documentation.

Any changes to the form & content of a venue agreement

It has also become apparent that changes to venue agreements and the attached venue payment schedules have not been notified to the Department. Any changes to the form and content of a venue agreement must be approved.

If there are any changes to the itemised list of costs on a venue agreement after it has been approved by the Department, then to comply with section 69 of the

Gambling Act 2003, the venue agreement and amended itemised list of costs needs to be resubmitted for approval. The original approval of the form and content of the venue agreement does not extend to any changes to the itemised list of costs

Proposed Licence Condition

To this end, pursuant to section 53(2) of the Gambling Act 2003, the Department proposes a standard licence condition to be attached to all relevant class 4 operator licences. This condition will read:

"Any alteration to the form and content of a class 4 venue agreement as described by section 69 of the Gambling 2003 Act must be submitted to the Secretary of Internal Affairs for his approval as soon as practicable".

Should you have any submissions on this proposed licence condition, please provide those submissions, to the undersigned, by 23 January 2009. In the absence of any submission, a revised class 4 operator's licence will be issued.

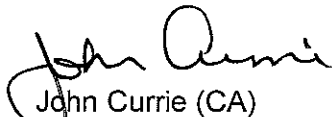
Timeliness

The Department is conscious not to create a situation whereby the licensing process is stalled as a result of an influx of venue agreements and assessments of the corroborating data. However, through the Department providing clear and specific reference material including labour activity data which will demonstrate what the Secretary considers to be reasonable timeframes, the approval of a well presented and evidenced itemised list of costs should not be a time consuming matter.

However, to further facilitate this process societies are encouraged to submit their licence application and corroborative documents at the earliest opportunity to ensure there are no processing delays.

If corroborative documentation is not supplied to the Licensing Unit during the aforementioned processes, then a venue licence will not be issued or will be suspended pending the Secretary's approval of the venue agreement.

The Department looks forward to your co-operation over the next six months in achieving an outcome that will be to the benefit of every part of the sector.


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