Cabinet Economic Growth and Infrastructure Committee

GOVERNMENT POSITION ON THE GAMBLING (GAMBLING HARM REDUCTION) AMENDMENT BILL

Proposal

1. The Commerce Committee is currently considering Te Ururoa Flavell’s Gambling (Gambling Harm Reduction) Amendment Bill (the Bill). This paper reports on my progress in working with the Māori Party on changes to the regulation of Class 4 gambling. The paper seeks Cabinet agreement to a Government position on the Bill and to advancing other proposals related to Class 4 gambling.

Executive Summary

2. Under the Gambling Act 2003 (the Act), Class 4 gambling (the use of gaming machines outside of casinos) is based on a community funding model. Corporate societies are licensed to operate gaming machines in clubs and pubs (venues) and distribute the proceeds to a non-commercial community purpose.

3. The paper reports back on my progress since December 2012 on working with the Māori Party on the Bill and addressing various Class 4 gambling issues. The Commerce Committee is currently considering the Bill, which received over 30,000 submissions, and is due to report back to the House by 4 June 2013.

4. My priorities for improving Class 4 gambling have provided the framework against which I have undertaken discussions with the Māori Party. These priorities are to:

   - increase the proportion of proceeds that the community receives from Class 4 gambling;
   - increase transparency around grant decisions and better address conflict of interest situations;
   - simplify compliance for societies, venues and the Department of Internal Affairs (the Department) and reduce associated costs;
   - develop a way for gambling proceeds to be generally distributed in the region where they were generated; and
   - enhance protections for problem gamblers.

5. If the Government were to support the Bill, it would be necessary for the majority of its clauses to be deleted. I have identified two proposals in the Bill that could be supported, although with amendments so that they were consistent with the regulatory framework in the Act.

6. These amendments would introduce regulation-making powers relating to the local distribution of gambling proceeds, and harm minimisation devices or technology in gaming machines. Consultation with affected parties would take place during the development of any regulations.

7. In addition, I recommend that the Bill allow for the movement of existing venues to locations that have been endorsed by the community. Existing licensed venues that wished to relocate would be permitted to do so where the relevant territorial authority allowed for this.
8. I seek agreement to the Government supporting the Bill with the identified changes, which would be reflected in the Department’s report to the Commerce Committee on the Bill.

9. Amendments outside the scope of the Bill are needed in a range of areas to improve the regulatory framework for Class 4 gambling and progress my priorities. These changes would also respond to issues raised by the Māori Party and some concerns expressed by submitters on the Bill. I intend to continue working closely with the Māori Party, should Cabinet agree to these proposals.

10. I seek Cabinet agreement to my proposals to make amendments to the Act and/or regulations to:
   - reduce red tape relating to venue costs – a regulation-making power to specify how venue operators are compensated for their costs;
   - increase the rate of return to communities;
   - give communities better information on grant-making decisions – additional reporting requirements for societies on their grant-making decisions and more flexibility about how this information is published;
   - strengthen provisions that deal with conflicts of interest – strengthen the conflict of interest provisions to better identify “key people” involved in Class 4 activities, and widen these to include the management companies that provide services to Class 4 societies;
   - reduce some further compliance costs for operators and the Department – an enabling power would be provided to allow the Department to licence Class 4 societies and venues for longer periods; and
   - clarify the powers of the Secretary for Internal Affairs (the Secretary) and the circumstances in which the Secretary can suspend and cancel licences issued under the Act.

11. I wish to advance these proposals in a separate government bill. I note that there is already a Gambling Amendment Bill (No 2) in the House, awaiting the Committee of the Whole House stage. This bill is largely technical in nature, meaning that my proposals would not be within scope.

Background

12. The Act and the regulatory framework for Class 4 gambling under the Act are summarised in the appendix, including some key facts and figures about the sector.

Previous Cabinet consideration

13. On 12 December 2012 I outlined to the Cabinet Economic Growth and Infrastructure Committee (EGI) the options for a Government position on the Bill and also identified a number of discrete issues in Class 4 gambling that I wish to address.

14. EGI invited me to continue to work with the Māori Party on proposed changes to Class 4 gambling and the options for progressing legislation. EGI noted that I would report back to EGI as soon as practicable on these issues. EGI also agreed that racing not be included in this work [EGI Min (12) 29/17].
Priorities for improving Class 4 gambling

15. My key priorities for Class 4 gambling are to:

- increase the proportion of proceeds that the community receives from Class 4 gambling;
- increase transparency around grant decisions and better address conflict of interest situations;
- simplify compliance for societies, venues and the Department and reduce associated costs;
- develop a way for gambling proceeds to be generally distributed in the region where they were generated; and
- enhance protections for problem gamblers.

16. My priorities have provided the framework against which I have considered the proposals in the Bill and other changes to the regulatory framework. Some of these priorities align with the issues that the Bill seeks to address.

Proposals in the Gambling (Gambling Harm Reduction) Amendment Bill

17. The Bill is small and narrow in scope but would nevertheless make significant changes to Class 4 gambling (summarised in Table 1 below). The Bill was referred to the Commerce Committee on 9 May 2012. The Commerce Committee received a very large number of submissions on the Bill (5,005 substantive submissions and 28,357 form submissions). The Committee’s report back on the Bill has been extended to 4 June 2013.

18. In its 2011 Pre-election Policy Statement the Māori Party expressed a commitment to enacting the Bill. This is the first Māori Party bill to reach this stage of the Parliamentary process and therefore the party has a strong desire to see the Bill make further progress.

19. Table 1 indicates whether each proposal in the Bill could potentially be supported. Table 1 also describes the parameters on each issue that I have applied during discussions with the Māori Party on the Bill, as indicated to EGI in December 2012.

20. When EGI considered the options for the Government response to the Bill in December 2012, it agreed that the proposal in the Bill relating to racing was not to be included in any further work to develop the Government’s position on the Bill [EGI Min (12) 29/17].

Table 1: Proposals in the Bill, whether there is potential for the Government to support the proposal and the Minister’s parameters in discussing each proposal with the Māori Party

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Potential for Government support</th>
<th>Parameters of discussion agreement with the Māori Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal 1: Territorial authorities take over the grant distribution role from societies</td>
<td>No</td>
<td>The proposal is not supported However, the level of transparency around societies’ grant-making could be improved</td>
</tr>
<tr>
<td>Proposal 2: Territorial authorities would have to take into account additional criteria when developing their Class 4 venue policies</td>
<td>No</td>
<td>The proposal is not supported. However, there may need to be changes so that a community’s views on the location of gambling venues are better reflected.</td>
</tr>
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<td>---------------------------------------------------------------</td>
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</tr>
<tr>
<td>Proposal 3: At least 80 per cent of proceeds distributed in the territorial authority district or the smallest local council ward/board area where proceeds were generated</td>
<td>Yes, in principle</td>
<td>Current formulation proposed in the Bill of 80 per cent would need to be refined to prevent unintended consequences and anomalies, and provide for the continued support of regional and national community purposes.</td>
</tr>
<tr>
<td>Proposal 4: The Department could require harm minimisation technologies like pre-commitment cards to be used (licence condition)</td>
<td>Yes, in principle</td>
<td>Support for enabling harm minimisation technology to be introduced to gaming machines in the future, provided the technology is cost-effective, and the enabling mechanism was consistent with the Act.</td>
</tr>
<tr>
<td>Proposal 5: Exclusion of racing from the definition of authorised purpose in the Act</td>
<td>No</td>
<td>EGI previously agreed that this would not be supported.</td>
</tr>
</tbody>
</table>

**Broad areas of agreement have been reached with the Māori Party**

21. I have reached some broad areas of agreement with the Māori Party on where changes to Class 4 gambling could be made. I have indicated that Government support would only be provided for the proposals within the parameters outlined above. I have also discussed the possibility of amendments in areas outside the scope of the Bill that would require a new amendment bill.

**Specific changes that would need to be made to the Bill for Government support**

22. In order for the Government to support the Bill, the clause to exclude racing from the definition of authorised purpose in the Act would need to be removed. The clauses in the Bill relating to territorial authorities taking over the distribution role from societies and those that make changes to the effect of territorial authorities’ Class 4 venue policies would also need to be deleted.

23. The two remaining proposals in the Bill represent areas where I support the underlying purpose of the proposal, but where the proposals need to be recast to be consistent with the regulatory framework in the Act.

24. I propose that two new regulation-making powers are introduced to replace these clauses. These would be a regulation-making power to provide for regulations that would require societies to return a certain amount of proceeds to the area where they were generated. Evidence exists that most societies already have local distribution policies, but I am keen to ensure that this is mandatory for all societies.

25. The clause about harm minimisation devices would also be replaced with a regulation-making power. This would allow regulations to be made that would require harm minimisation technology or devices to be used in gaming machines.

26. The process of developing new regulations under the two new regulation-making powers would involve consultation with stakeholders, such as gambling operators and community groups that receive funding from societies. I have indicated to the Māori Party that, were the Bill to be passed with these changes, promulgating the regulations requiring a specific level of local distribution of Class 4 proceeds would be a high priority. Regulations about harm minimisation devices would be
developed at a later stage, as new technologies are still emerging and evidence about their cost effectiveness is yet to be determined.

27. If Cabinet agrees to these proposed amendments, the Departmental report to the Commerce Committee on the Bill would recommend these changes be made to the Bill. If any other proposals below are determined to be within scope of the Bill, they may also be included in the departmental report.

Additional provision in the Bill to allow the movement of existing venues away from low socio-demographic areas to locations that have been endorsed by the community

28. Analysis shows that the majority of Class 4 venues pre-date the Act, meaning that they have more than nine gaming machines and have not been subject to the territorial authority consent process. These venues are often also located in lower socio-economic, high deprivation areas with a high proportion of Māori and Pacific peoples. Studies have shown that Māori and Pacific people are more likely than other population groups to be problem gamblers or suffer from gambling-related harm.

29. Addressing the issue requires balancing the role of local government in reflecting community views and the legitimate business interests of venue operators. I note that initial advice is that this issue may be within scope of the Bill.

30. While I do not support the provisions in the Bill that would enable territorial authorities to remove gaming machines from existing venues, I propose that the departmental report on the Bill recommend amendments to allow the relocation of venues. Venue relocations would need to be supported by the society, venue operator and the relevant territorial authority.

31. Territorial authorities would be required to consult their communities about whether existing venues could shift to other areas within the district, and reflect this in their Class 4 venue policies. This could occur at the time of the next scheduled revision of their policies. Subsequently if a venue policy provided for relocation, the consent of the territorial authority to the relocation could be sought. This would include 18-machine venues that pre-date the Act. This would provide an additional tool for territorial authorities, but would not be compulsory.

32. Currently Class 4 venue licences attach to a physical location and cannot be transferred. Legislative changes would be needed to allow the transfers of licences to occur, if territorial authority consent for a different location has been given.

33. I am awaiting final confirmation from the Māori Party that they support this proposal. I expect to have received confirmation by the time Cabinet considers this paper. I am unlikely to proceed with this provision without Māori Party support.

Other Class 4 gambling changes to advance my priorities and address Māori Party and submitter concerns

34. Amendments in areas that are potentially outside the scope of the Bill are needed to advance my priorities. These changes would also respond to issues raised by the Māori Party and some concerns expressed by submitters on the Bill. I outlined these issues in my paper to EGI in December 2012.

Reduce red tape relating to venue costs

35. One of my areas of priority work for Class 4 gambling is to reduce the compliance costs associated with societies compensating Class 4 venue operators for their
operating costs. The current system is very complex and imposes compliance and regulatory burdens on the Department and the sector.

36. I propose that a regulation-making power be introduced to allow regulations to be made that would specify how venue operators are compensated. Consultation would take place about the alternative options for the regulations, which could involve societies paying venues on a commission basis (for example, paid on the percentage of the gaming machine proceeds that was generated by the venue’s gaming machines, up to a cap) or on a fixed per-gaming machine basis, or a combination of these two options. There would also need to be some other consequential amendments made, including removing the current prohibition in the Act on commission payments.

37. It would be necessary to ensure that commission-based payments to venues would be no higher than the current maximum of 16 per cent of society costs.

*Increase the rate of return to communities*

38. Another priority area is to increase the rate of return to authorised purposes. I propose to increase the rate and thereby increase the community benefit from Class 4 gambling.

39. Some societies return far more than the minimum required rate, and the average is comfortably above the minimum. However, a cluster of societies tend closely toward the minimum rate of 37.12%. I am therefore concerned that some societies treat the required rate as a target rather than a minimum. As I outlined to EGI in December 2012 analysis has been completed that suggests that an increase in the rate of return would be feasible.

40. The minimum rate of return is set in regulations and a change would require Cabinet approval of the release of a discussion document. I intend to seek Cabinet approval by mid-2013 for this consultation round, which would cover the increase in the minimum rate of return and the options for alternative venue payment systems.

41. This proposal may attract a negative response from societies. On the other hand, some of my other proposed measures will reduce compliance costs for societies. Some societies already return well above the minimum rate and would not be affected.

*Give communities better information on grant-making decisions*

42. As reflected in the proposed position on the Bill there is no intention to remove grant decision-making from societies. However, although there are some publication requirements in the Act, making more comprehensive information available to communities about societies’ grant-making would improve the transparency of these processes. This would also complement the proposed regulation-making power in the Bill that would require proceeds to be returned to the area where they were generated.

43. I propose to increase the transparency of societies’ activities by requiring societies to give standardised information about their individual grant applicants, including their geographical location, the amount of the grant requested and the purpose for which the grant will be used. Societies would need to provide this information to the Department electronically, to allow analysis of grant-funding trends. I also propose that people who are members of net proceeds committees (who are responsible for grant-making decisions) report on whether they had any direct or
indirect interest in a successful grant applicant. An existing regulation-making power in the Act would need to be amended to enact these changes.

44. In addition, to reduce compliance costs, I propose that the requirement that societies publish the information in at least one newspaper be removed from the Act. This requirement can be costly for small societies, and I believe that publishing information online is sufficient. These requirements would be specified in regulations and could be more specifically tailored to meet the needs of stakeholders.

45. Although societies currently publish financial statements, because of variations in approach to this reporting, comparisons between societies is difficult. I propose a new regulation-making power to prescribe how societies’ financial information and key indicators of operational efficiency should be published. This would allow comparisons of societies’ performance, and could encourage societies to better compare their operations to one another and identify efficiency gains.

Strengthen provisions that deal with conflicts of interest

46. Commentary in the Bill and submissions on it reflected concerns that societies are involved in rorts or act in self-interest. The Act currently has two conflicts of interest provisions with associated summary offences, each with a fine not exceeding $10,000 on conviction. Central to these provisions is the definition of a “key person”, in relation to a venue and to a society. One provision is primarily intended to ensure that a key person in relation to a venue (venue key person) is not involved in the grant-making processes of the society that operates at the venue.

47. The other conflict of interest provision prohibits key persons from seeking or receiving any benefit from a grant recipient or potential grant recipient, if the receipt of the benefit has a condition attached (for example, favourable consideration of a grant application). There is also a prohibition on venue key persons from seeking or receiving a benefit from a society key person, if receipt has some condition attached.

48. The conflict of interest provisions are important because they help to ensure that gambling is undertaken to benefit the community rather than enable personal gain. I propose a range of amendments to strengthen the conflict of interest provisions in the Act. One set of amendments would focus on the definition of a venue “key person”. These amendments would:

- extend the definition so that the indirect interests and relationships of venue operators to grant recipients would be captured; and
- simplify the test for determining if a person not explicitly specified in the Act as a key person has an interest in a venue such that he or she is in essence a key person.¹

49. The other group of amendments would make changes to better prevent the receipt of influential gifts. These amendments would:

¹ Currently a key person may be “any other person whom the Secretary for Internal Affairs reasonably believes to have a significant interest in the management, ownership or operation of a venue operator…”. The reference to the Secretary would be removed (“any other person who has a significant interest in the management, ownership or operation of a venue operator”).
• prohibit gifts or benefits between societies and venues even where there is no "condition attached" to the gift or benefit; and
• prohibit key people in societies and venues from receiving any benefits that a reasonable person would believe could influence the grant-making process.

50. Another issue raised by submitters was the practice of some societies using management companies. These companies provide societies with services that include, for example, contract negotiation with venues, administrative and financial management or grant application processing. Analysis has shown that there is little transparency around management company costs or influence in the Class 4 gambling sector.

51. I propose that the Act is amended so that management companies are brought within the gambling regulatory framework in some areas. The Department would be provided with a power to audit these companies. The ‘key person’ definition would also be widened so that people running these management companies would be considered when an application is made for a Class 4 operator’s licence, and the conflict of interest provisions would also apply.

Reduce some further compliance costs for Class 4 operators and the Department

52. Currently societies and venue operators may only be licensed by the Department for a maximum period of 18 months. I propose that amendments are made so that the Secretary has the power to issue licences for up to three years. Requiring less frequent renewals could be used as a reward for highly-compliant operators and would help reduce their costs, and therefore improve returns to communities. Fewer licence renewals could also mean a reduction in costs for the Department.

Options for the Government in its approach towards Class 4 gambling changes

53. I have considered the options for the Government in taking a position on the Bill, and on changes to Class 4 gambling generally, and how to proceed. One option would be for the Government to withdraw support for the Bill and also not advance any of the Class 4 gambling legislative and regulatory changes mentioned above.

54. Alternatively the Government could withdraw support for the Bill and focus solely on a new Gambling Amendment Bill, which would pick up the changes proposed in the Bill that align with my priorities (that is, the two new regulation-making powers), as well as the other proposals I have outlined above.

55. I prefer the option of the Government supporting the Bill in the areas agreed with the Māori Party. In addition to supporting amended provisions in the Bill, I also wish to progress my other proposals and advance these in a new government bill. I seek Cabinet agreement to this course of action.

Gambling Amendment Bill (No 2)

56. The Gambling Amendment Bill (No 2) (the No 2 Bill) introduces some minor policy changes and technical enhancements to improve the operability of the Act, and is currently awaiting the Committee of the Whole House stage.

57. Under my preferred option I have considered whether the No 2 Bill should be withdrawn and all amendments to the Act included in the new bill. However, because the No 2 Bill has already been considered at select committee and passed through several Parliamentary stages with cross-party political support, it would be preferable to retain it and allow it to progress through its remaining Parliamentary stages as soon as possible.
58. There are some further technical amendments that should be included in the No 2 Bill because additional technical issues have arisen since the select committee reported back on the Bill in May 2008. At a future date I intend to seek Cabinet agreement to drafting instructions being issued for a supplementary order paper to the No 2 Bill to remedy these issues.

**Clarify the powers to suspend and cancel licences issued under the Act**

59. A recent judicial review has determined that the Department’s power to suspend societies cannot be used for past one-off (as opposed to current or ongoing) breaches of the Act. The availability of this power has been important, and has been used to occasionally suspend societies as well as for leverage to ensure regulatory compliance. I seek Cabinet agreement to amendments to clarify that the Department’s suspension and cancellation powers for licences issued under the Act are available for past one-off breaches, so that this change can be included in the new bill if not within scope of the supplementary order paper to the No 2 Bill.

**Consultation**

60. This paper was prepared by the Department of Internal Affairs. The Treasury, Ministry of Health, Te Puni Kōkiri, Ministry of Pacific Island Affairs, Ministry of Women’s Affairs, Ministry for Culture and Heritage, Sport New Zealand and the Officials’ Committee for the Cabinet Economic Growth and Infrastructure Committee were consulted on the paper. The Department of the Prime Minister and Cabinet was informed.

**Financial implications**

61. There are no financial implications arising from this paper.

**Human rights, gender implications and disability perspective**

62. There are no human rights, gender implications or disability perspectives associated with this paper.

**Legislative implications**

63. The Commerce Committee may recommend amendments to the Bill in its report to the House, due by 4 June 2013. If the Bill has sufficient support in the House it could be passed by the end of 2013.

64. Cabinet agreement is sought to a new Gambling Amendment Bill being introduced in 2013. Changes to existing regulations are likely to be required. The No 2 Bill and a new Gambling Amendment Bill both have a category 3 on the 2013 legislative programme (to be passed if possible in 2013).

**Regulatory Impact Analysis**

**Regulatory Impact Analysis requirements**

65. Regulatory impact analysis requirements apply to the proposals in this paper as there are potential regulatory implications. A Regulatory Impact Statement has been prepared and is attached to the Cabinet paper.

**Quality of the Impact Analysis**

66. The Regulatory Impact Analysis Panel of the Department has reviewed the Regulatory Impact Statement (RIS) prepared by the Department and associated supporting material and the Panel considers that the information and analysis summarised in the RIS meets the quality assurance criteria.
Consistency with Government Statement on Regulation

67. I have considered the analysis and advice of my officials, as summarised in the attached Regulatory Impact Statement and I am satisfied that, aside from the risks, uncertainties and caveats already noted in this Cabinet paper, the regulatory proposals recommended in this paper:

- are required in the public interest;
- will deliver the highest net benefits of the practical options available; and
- are consistent with our commitments in the Government statement Better Regulation, Less Regulation.

Publicity

68. As indicated by the number of submissions received on the Bill, there is significant interest in the Bill and in the Government’s response to its proposals. I will make decisions about publicity around the Bill as it approaches its next Parliamentary stage, after the Commerce Committee has reported on the Bill (due by 4 June 2013).

Recommendations

69. It is recommended that the Committee:

1. **note** that the Commerce Committee is currently considering the Gambling (Gambling Harm Reduction) Amendment Bill (the Bill), a Member’s bill in the name of Te Ururoa Flavell, and is due to report back on the Bill by 4 June 2013;

2. **note** that the Bill proposes significant changes to Class 4 gambling through amendments to the Gambling Act 2003 (the Act), and has attracted over 30,000 submissions;

3. **note** that on 12 December 2012 the Cabinet Economic Growth and Infrastructure Committee invited the Minister of Internal Affairs to continue to work with the Māori Party on proposed changes to Class 4 gambling and the options for progressing legislation, noting that the Minister would report back to the Committee as soon as practicable on these issues [EGI Min (12) 29/17];

4. **note** that the Minister of Internal Affairs’ key priorities for Class 4 gambling are to:
   4.1 increase the proportion of proceeds that the community receives from Class 4 gambling;
   4.2 increase transparency around grant decisions and better address conflict of interest situations;
   4.3 simplify compliance for societies, venues and the Department of Internal Affairs and reduce associated costs;
   4.4 develop a way for gambling proceeds to be generally distributed in the region where they were generated; and
   4.5 enhance protections for problem gamblers;

5. **note** that there is some alignment between these priorities and the issues that the Bill seeks to address;
Government position on the Bill

6. **note** that the Minister of Internal Affairs has reached some broad areas of potential agreement with the Māori Party on where changes to Class 4 gambling could be made;

7. **agree** that the Government support the Bill with the following amendments:
   
   7.1 deletion of the clauses making territorial authorities responsible for distributing funds;
   
   7.2 deletion of the clauses to extend the criteria for developing, and the effect of, territorial authorities’ Class 4 venue policies;
   
   7.3 insertion of a clause requiring territorial authorities, when revising their Class 4 venue policies, to consult about whether existing Class 4 venues should be able to relocate within their districts, having regard to the social impact of gambling in high deprivation communities;
   
   7.4 insertion of a clause requiring each venue relocation to be supported by the society, venue operator and the relevant territorial authority;
   
   7.5 insertion of a clause permitting transfer of a Class 4 licence if territorial authority consent for a different location for that venue has been given;
   
   7.6 deletion of the clauses requiring 80 per cent of net proceeds to be distributed in the district or ward where the gambling occurred;
   
   7.7 insertion of a regulation-making power to provide for regulations that would require societies to return a certain amount of net proceeds to the area where they were generated;
   
   7.8 deletion of the clause introducing an ability for the Secretary for Internal Affairs to include a licence condition requiring harm minimisation technologies to be used in gaming machines;
   
   7.9 insertion of a regulation-making power to provide for regulations that would require harm minimisation technology or devices to be used in gaming machines; and
   
   7.10 deletion of the clause excluding racing from the definition of authorised purposes;

8. **note** the Department of Internal Affairs’ report to the Commerce Committee on the Bill will reflect these amendments and any amendments agreed to below that are within scope of the Bill;

Other changes for Class 4 gambling

9. **agree** to a new Gambling Amendment Bill to support the key priorities of the Minister of Internal Affairs and address Māori Party and submitter concerns, with amendments to the Act included as follows:

Reduce red tape relating to venue costs

9.1 **agree** to a regulation-making power to specify how venue operators are compensated and removal of the current prohibition on commission payments;

9.2 **note** that Cabinet approval will be sought by mid-2013 for the release of a discussion document setting out the options for regulations to establish a new venue payment system;
Increase the rate of return to communities

9.3 **note** that the discussion document will also outline a proposed increase to the minimum rate of return to authorised purposes, which is set in regulation;

Give communities better information on grant-making decisions

9.4 **agree** that the regulation-making power relating to the reporting requirements for societies be extended, so that societies report standardised information about their individual grant applicants and provide this information to the Secretary for Internal Affairs electronically, and indicate whether net proceeds committee members had any direct or indirect interest in successful grant applicants;

9.5 **agree** that the requirement in the Act for societies to publish grant application information in a newspaper is removed so that publication requirements can be set in regulations and be tailored to meet stakeholder needs;

9.6 **agree** to a new regulation-making power to prescribe how societies’ financial information and key indicators of operational efficiency should be published;

Strengthen provisions that deal with conflicts of interest

9.7 **agree** that the indirect interests and relationships of venue operators are captured in the conflict of interest provisions;

9.8 **agree** that the test for determining if a person not explicitly specified in the Act as a key person has an interest in a venue that indicates he or she is in essence a key person is simplified;

9.9 **agree** that the requirement for a ‘condition attached’ where there is receipt or seeking of a benefit or gift be removed, between the key persons of societies and key persons of venues;

9.10 **agree** that key people in societies and venues are prohibited from receiving any benefits that a reasonable person would believe could influence the grant-making process;

9.11 **agree** that the Secretary for Internal Affairs be provided with a power to audit companies that provide management services to societies, and that the key person definition be extended to apply to those running these management companies; and

Reduce some further compliance costs for Class 4 operators and the Department

9.12 **agree** that an enabling power be provided so that the Secretary for Internal Affairs may issue licences for Class 4 operators and Class 4 venues for a period of up to three years;

10. **note** that the Minister of Internal Affairs wishes to progress the Gambling Amendment Bill (No 2), which is currently awaiting the Committee of the Whole House stage, and contains minor policy changes and technical amendments;
11. note that the Minister of Internal Affairs will seek Cabinet agreement to a supplementary order paper to include additional technical amendments in the Gambling Amendment Bill (No 2) that have arisen since the Bill was reported back from the select committee in 2008; and

12. agree that the Act be amended to clarify that the Secretary for Internal Affairs’ suspension and cancellation powers for licences issued under the Act are available for past, one-off breaches.

Hon Chris Tremain  
Minister of Internal Affairs

/ / 2013
Appendix

Framework of the Gambling Act 2003 and Class 4 Gambling

i. Under the Gambling Act 2003 (the Act) Class 4 (non-casino) gaming machines are operated by non-commercial corporate societies (societies), which are licensed by the Department.

ii. These societies operate gaming machines in venues to raise money that is returned to the community. All net gaming machine proceeds (GMP) must be used for an “authorised purpose”, which is defined in the Act as a charitable or a non-commercial community purpose. This may include conducting racing activities.

iii. Societies are broadly categorised as either club or non-club societies. Clubs (i.e. sports clubs, chartered clubs and Returned Services Associations) typically have machines in their own clubrooms and apply gambling proceeds to their own club purposes.

iv. Non-club societies (i.e. not-for-profit companies and trusts) typically operate machines in commercial venues (pubs and bars) and enter into agreements with venue owners to host their gaming machines. Venues are prohibited from profiting from this activity.

v. As at 30 December 2012, of 357 licensed societies, 310 were clubs and 47 were non-club societies. The non-club societies owned 79 per cent (13,957) of the 17,670 gaming machines.

Table 1: Gaming machine proceeds by class of venue for quarter to December 2012

<table>
<thead>
<tr>
<th>Class of venue</th>
<th>Number of Gaming Machines</th>
<th>Number of venues</th>
<th>Total GMP ($m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chartered club</td>
<td>2010</td>
<td>147</td>
<td>16.914</td>
</tr>
<tr>
<td>Commercial</td>
<td>13,674</td>
<td>1034</td>
<td>180.779</td>
</tr>
<tr>
<td>RSA Club</td>
<td>1111</td>
<td>89</td>
<td>7.682</td>
</tr>
<tr>
<td>Sports Club</td>
<td>534</td>
<td>79</td>
<td>2.875</td>
</tr>
<tr>
<td>TAB</td>
<td>341</td>
<td>32</td>
<td>5.971</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>17,670</strong></td>
<td><strong>1381</strong></td>
<td><strong>214.221</strong></td>
</tr>
</tbody>
</table>

vi. In total, societies return approximately $300 million to authorised purposes annually.

vii. Non-club societies must allocate at least 37.12 per cent of their (GST exclusive) gross proceeds (gambling turnover plus other income, less prizes) to authorised purposes and most do so in the form of grants to community groups.

viii. The Act seeks to balance the potential harm from gambling against the benefits of using gaming machines as a community fundraising mechanism. Regulation of Class 4 gambling is an important aspect of a public health approach to preventing and minimising gambling-related harm. Examples of harm prevention measures established by regulation include limiting stakes and prizes and interrupting gaming machine play.
ix. Growth in Class 4 venue and gaming machine numbers is restricted, because a statutory limit on the number of machines in new venues applies (a maximum of nine), and also because of the consenting role of territorial authorities. Territorial authority consent is required when a society wishes to increase the number of machines operating at an existing venue, or to operate at a new venue. Territorial authorities must develop Class 4 venue policies for their districts, in consultation with their communities, on a three-yearly cycle. Councils then consider consent applications against their Class 4 venue policies.

x. In July 2012, 55 out of 73 territorial authorities had some form of restriction on venues in their districts (caps on new venues, prohibition on new venues, or ‘sinking lid’ policies on existing gaming machine numbers).