29 November 2010

To Chief Executive Officer

Revised Policy on Misuse of GMP & EGM Disconnections

In a recent Gambling Commission decision, New Zealand Community Trust decision GC22/10, the Commission determined that certain breaches at venues are unsuitable to be sanctioned by the suspension of the class 4 venue licence. In that case, the Commission discussed the interpretation of section 74 of the Gambling Act 2003, which contains the Secretary’s power to suspend or cancel a class 4 venue licence. The Commission determined that suspensions under section 74(1) must relate to and reflect the systematic or ongoing requirements set out in section 67.

The Department’s Misuse (Late Banking) of Gaming Machine Profits Policy (the policy) came into effect on 12 October 2009 and has been subsequently reviewed in light of the GC22/10 decision. The general process will no longer include the suspension step if a venue manager either late banks or does not bank gaming machine profits (GMP) within the required 5-working day period.

The general steps that apply to instances of late banking by venue managers (to which the clean slate approach will still 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 – venue manager is issued an Infringement Notice.

4. 4th instance of late banking – proposal to cancel the venue licence due to the unsuitability of the venue manager.
Where an Infringement Notice(s) has been issued to a venue manager, for either the late banking or a failure to bank gaming machine profits (GMP), within the required 5-working day period, the Department will notify the relevant society of the situation. The expectation of this notification is that the society will take a lead role in developing best practice initiatives to ensure that the requirements of section 104 of the Gambling Act 2003 are adhered to, and that further non-compliance by the venue does not exacerbate the situation.

Full details of the Department’s Misuse (Late Banking) of Gaming Machine Profits Policy including the aforementioned change can be found on the Department’s website.

Yours sincerely

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