



# Gambling Amendment Act 2015

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#### **The Parliament of New Zealand enacts as follows:**

##### **1 Title**

This Act is the Gambling Amendment Act 2015.

##### **2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

##### **3 Principal Act amended**

This Act amends the Gambling Act 2003.

## Part 1

### Amendments to preliminary provisions

#### 4 Purpose

- (1) Section 3(b) is amended by omitting “the harm caused by” and substituting “harm from”.
- (2) Section 3(f) is amended by inserting “gambling and the conduct of” after “with”.

#### 5 Interpretation

- (1) Section 4(1) is amended by repealing the definition of **allocation** and substituting the following definition:  
“**allocate**, in relation to tickets in an instant game,—  
“(a) that is a New Zealand lottery or part of a New Zealand lottery, means to determine, in accordance with section 248, the tickets that are prize-bearing tickets or the prize that each ticket bears:  
“(b) that is not a New Zealand lottery or part of a New Zealand lottery, means to determine wholly by chance the tickets that are prize-bearing tickets or the prize that each ticket bears”.
- (2) Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:  
“**apply**, in relation to the application by a corporate society of net proceeds from class 4 gambling to an authorised purpose, means spending the net proceeds directly on the corporate society’s own authorised purpose  
“**distribute**, in relation to the distribution by a corporate society of net proceeds from class 4 gambling to an authorised purpose, means the corporate society making a grant to another person for that person to spend on an authorised purpose  
“**EFTPOS device** means an electronic funds transfer at point of sale device  
“**gambling assets** means assets acquired to enable the conduct of gambling, including, but not limited to, any fittings or chattels”.
- (3) The definition of **class 4 venue** in section 4(1) is amended by omitting “conduct” and substituting “operate”.

- (4) The definition of **gaming machine** in section 4(1) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) means a device, whether totally or partly mechanically or electronically operated, that—
- “(i) is adapted or designed and constructed for gambling; and
- “(ii) is played or confers a right to participate, whether totally or partly, by the insertion of money into it or by the direct or indirect payment of money by any other means; and”.
- (5) Paragraph (d) of the definition of **gaming machine** in section 4(1) is amended by inserting the following subparagraph after subparagraph (iii):
- “(iiia) a jackpot device that links a series of gaming machines and that can only be played through those gaming machines; or”.
- (6) Section 4(1) is amended by repealing the definition of **illegal gambling** and substituting the following definition:
- “**illegal gambling** means gambling declared as illegal by section 9, 17(3), or 17A(2)”.
- (7) The definition of **infringement offence** in section 4(1) is amended by repealing paragraph (b) and substituting the following paragraph:
- “(b) an offence prescribed as an infringement offence by regulations made under section 360”.
- (8) Section 4(1) is amended by repealing the definition of **instant game** and substituting the following definition:
- “**instant game** means a form of gambling where prizes are allocated before, or simultaneously with, the sale of a ticket”.
- (9) Paragraph (b)(v) of the definition of **key person** in section 4(1) is amended by omitting “contracted to service” and substituting “who services”.
- (10) Section 4(1) is amended by repealing the definition of **net proceeds** in section 4(1) and substituting the following definition:
- “**net proceeds**, in relation to gambling, means the turnover of the gambling (less prizes) plus interest or other investment



return on that turnover plus any gain above the book value from the sale of gambling assets less—

- “(a) the actual, reasonable, and necessary costs, levies, and taxes incurred in conducting the gambling; and
- “(b) the actual, reasonable, and necessary costs incurred in complying with whichever of the following apply to the gambling:
  - “(i) this Act or any other relevant Act:
  - “(ii) an operator’s licence:
  - “(iii) a venue licence; and
- “(c) the amount by which any gambling asset is depreciated in each year in accordance with generally accepted accounting practice (as defined in section 108) and, where applicable, the depreciation rates set under section 116; and
- “(d) any loss from selling or disposing of a gambling asset at a price or value below the gambling asset’s book value at the time of the sale or disposal”.

- (11) Paragraph (a) of the definition of **New Zealand lottery** in section 4(1) is amended by omitting “promoted by the Lotteries Commission under subpart 2 of Part 3 by means of” and substituting “conducted by the Lotteries Commission under subpart 2 of Part 3 that is”.
- (12) The definition of **relevant offence** in section 4(1) is amended by repealing paragraph (b) and substituting the following paragraph:
  - “(b) an offence considered by the Secretary or the Gambling Commission (as the case may be) to be relevant; or”.
- (13) The definition of **remote interactive gambling** in section 4(1) is amended by repealing paragraph (a) and substituting the following paragraph:
  - “(a) includes—
    - “(i) gambling by a person at a distance by interaction through a communication device; or
    - “(ii) the conduct of gambling described in subparagraph (i) by a person; but”.

- (14) Paragraph (b)(i) of the definition of **remote interactive gambling** in section 4(1) is amended by omitting “promoted” and substituting “conducted”.
- (15) Section 4(1) is amended by repealing the definition of **responsible gambling** and substituting the following definition:  
“**responsible gambling** means lawful participation in gambling—  
“(a) that is lawful, fair, and honest; and  
“(b) conducted—  
    “(i) in a safe and secure environment; and  
    “(ii) without pressure or devices that encourage or may encourage gambling at levels that cause or may cause harm; and  
“(c) by informed participants who understand the nature of the activity and do not participate in ways that cause or may cause harm; and  
“(d) conducted in a manner that is consistent with the general law of New Zealand, including being consistent with the maintenance of law and order”.
- (16) The definition of **sales promotion scheme** in section 4(1) is amended by inserting “restricted or” after “prize”.
- (17) The definition of **sales promotion scheme** is amended by repealing paragraph (c) and substituting the following paragraph:  
“(c) the person is not required to pay direct or indirect consideration other than to purchase the goods or services promoted (except the cost, at the standard rate, incurred in submitting an entry into the promotion, for example, the cost of postage at the standard rate or sending a telecommunication by mobile telephone at the standard rate); and”.
- (18) The definition of **venue operator** in section 4(1) is repealed and the following definition substituted:  
“**venue operator** means the occupier of a class 4 venue for which the licence application was required under section 65(3) to be accompanied by a class 4 venue agreement where the occupier owns the primary business at the venue”.

(19) Section 4 is amended by inserting the following subsections after subsection (2):

“(2A) For the purposes of the definition of **sales promotion scheme**, the reference to standard rate means a rate that—

“(a) is determined solely by a telecommunications provider or other service provider who is not associated with the sales promotion scheme; and

“(b) relates solely to the communication cost incurred in submitting an entry into the promotion and does not reflect cost incurred in participating in the promotion.

“(2B) In this Act, a reference to possibility, in relation to problem gambling or underage gambling, is a reference to risk, and vice versa.”

**6 New section 5 substituted**

Section 5 is repealed and the following section substituted:

**“5 Extended meaning of conduct**

In this Act, **conduct**, in relation to gambling, includes any of the following activities:

“(a) organising, using, managing, supervising, and operating (but not playing) gambling or gambling equipment:

“(b) distributing the turnover of gambling (for example, by paying prizes, meeting costs, or making grants):

“(c) selling tickets to participate in gambling:

“(d) promoting gambling:

“(e) assisting in activities described in paragraphs (a) to (d).”

**7 New section 8A inserted**

The following section is inserted after section 8:

**“8A Act binds the Crown**

This Act binds the Crown.”

## **Part 2**

### **Amendments to provisions relating to classes of gambling and institutions**

**8 What is increase in casino gambling**

(1) Section 12 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) Decisions on what constitutes an increase in the opportunities for casino gambling are a function of the Gambling Commission.”
- (2) Section 12(2) is amended by omitting “Casino Control Authority, or the Gambling Commission,” in each place where it appears and substituting in each case “Gambling Commission”.

**9 Advertising overseas gambling prohibited**

Section 16(2)(e) is amended by omitting “overseas gambling”.

**10 New section 17 substituted**

Section 17 is repealed and the following section substituted:

**“17 Regulations may restrict or prohibit prizes**

- “(1) The Governor-General may, by Order in Council, make regulations that, consistent with the purpose of this Act, restrict or prohibit any property (whether real or personal) or services being offered or used as a prize for gambling.
- “(2) Regulations made under subsection (1) may—
  - “(a) specify a quantity or dollar value of any property or services that may not be offered or used as a prize for gambling:
  - “(b) specify circumstances in which—
    - “(i) any property or services may not be offered or used as a prize for gambling:
    - “(ii) a quantity or dollar value of any property or services may not be offered or used as a prize for gambling:
  - “(c) apply to all gambling or to particular games, or categories, classes, or forms of gambling.
- “(3) Gambling that offers or uses any property or services as a prize in breach of regulations made under subsection (1) is illegal gambling.
- “(4) In this section, **property or services** includes an entitlement to property or services.”

**11 New section 17A inserted**

The following section is inserted after section 17:

**“17A Retail value of non-cash prize must be stated**

- “(1) A person who is conducting gambling must inform participants, at the time and place of sale of the tickets, of the retail value and characteristics of any non-cash prize offered or used as a prize for the gambling.
- “(2) Gambling that offers or uses any non-cash prize in breach of subsection (1) is illegal gambling.”

**12 Secretary may categorise gambling**

Section 21 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) The Secretary may, by notice in the *Gazette*, categorise any game, or category or class of game, or form of gambling, as being included in or excluded from a class of gambling if the Secretary considers that—
- “(a) the categorisation contributes to achieving the purpose of this Act; and
  - “(b) the level of risk associated with the game, or category or class of game, or form of gambling justifies the categorisation.”

**13 Meaning of class 1 gambling**

- (1) Section 22 is amended by inserting the following paragraph after paragraph (d):
- “(da) there are game rules for the gambling; and”.
- (2) Section 22(e) is amended by inserting “, and the conduct of the gambling,” after “gambling”.

**14 Meaning of class 2 gambling**

- (1) Section 24 is amended by inserting the following paragraph after paragraph (d):
- “(da) there are game rules for the gambling; and”.
- (2) Section 24(e) is amended by inserting “, and the conduct of the gambling,” after “gambling”.

**15 Meaning of class 3 gambling**

- (1) Section 27 is amended by inserting the following paragraph after paragraph (b):

“(ba) there are game rules for the gambling; and”.

- (2) Section 27(c) is amended by inserting “, and the conduct of the gambling,” after “gambling”.

**16 New section 30 substituted**

Section 30 is repealed and the following section substituted:

**“30 Meaning of class 4 gambling**

In this Act, **class 4 gambling** is gambling that satisfies the following criteria:

- “(a) the net proceeds from the gambling are applied to, or distributed for, authorised purposes; and
- “(b) no commission is paid to, or received by, a person for conducting the gambling; and
- “(c) there are game rules for the gambling; and
- “(d) the gambling, and the conduct of the gambling, satisfies relevant game rules; and
- “(e) either—
  - “(i) the Secretary has categorised the gambling as class 4 gambling and not as another class of gambling; or
  - “(ii) the gambling utilises or involves a gaming machine.”

**17 Status of New Zealand Racing Board and racing clubs**

Section 33 is amended by repealing subsection (1) and substituting the following subsections:

- “(1) The New Zealand Racing Board and societies that are racing clubs under the Racing Act 2003 must be treated as corporate societies—
- “(a) for the purposes of—
    - “(i) a class 4 operator’s licence or class 4 venue licence; or
    - “(ii) an application for, or the renewal or amendment of, either licence; and
  - “(b) that, for the purposes of a class 4 operator’s licence or a class 4 venue licence, apply net proceeds from class 4 gambling to an authorised purpose.

“(1A) Despite subsection (1)(b) and to avoid doubt, section 52A does not apply to the New Zealand Racing Board or a racing club.”

**18 New section 34 substituted**

Section 34 is repealed and the following section substituted:

**“34 Meaning of casino gambling**

In this Act, **casino gambling**—

“(a) means gambling—

“(i) for which there are game rules; and

“(ii) that satisfies those game rules; and

“(iii) which is conducted in accordance with those game rules; and

“(iv) to which both a casino venue licence and casino operator’s licence apply; but

“(b) does not include gambling conducted by the New Zealand Racing Board referred to in section 120.”

**19 Secretary must investigate applicant for class 3 operator’s licence**

Section 36(3) is amended by omitting “10” in each place where it appears and substituting in each case “7”.

**20 Content and conditions of class 3 operator’s licence**

Section 38(2)(a) is amended by omitting “risks of players becoming problem gamblers” and substituting “the risk of problem gambling”.

**21 New section 38A inserted**

The following section is inserted after section 38:

**“38A Continuing obligations of class 3 operator**

Every society that holds a class 3 operator’s licence must, in relation to class 3 gambling conducted by the society, ensure that at all times—

“(a) the purpose of that gambling is to raise money for authorised purposes; and

“(b) the net proceeds from that gambling are maximised and the operating costs of that gambling are minimised; and

- “(c) the costs incurred in conducting that gambling are actual, reasonable, and necessary; and
- “(d) the net proceeds from that gambling are applied to or distributed for authorised purposes; and
- “(e) all applicable regulatory requirements are complied with.”

## **22 Renewal of class 3 operator’s licence**

- (1) Section 41(1) is amended by omitting “operates” and substituting “conducts”.
- (2) Section 41(5) is amended by inserting, after paragraph (a), the following paragraph:
  - “(ab) the Secretary is not satisfied that the applicant complies with section 38A; or”.
- (3) Section 41(5)(b) is amended by inserting “including the obligations set out in section 38A,” after “relevant requirements of this Act,”.

## **23 Amending class 3 operator’s licence**

Section 42 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) The Secretary must refuse to amend a class 3 operator’s licence if—
  - “(a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 37; or
  - “(b) the Secretary is not satisfied that the applicant complies with section 38A; or
  - “(c) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, including the obligations set out in section 38A, minimum standards, game rules, and licence conditions.”

## **24 Suspension or cancellation of class 3 operator’s licence**

- (1) Section 43(1) is amended by repealing paragraph (b) and substituting the following paragraph:
  - “(b) the society is failing, or has failed, to comply with the obligations set out in section 38A or with any other rele-



vant requirements, minimum standards, game rules, or licence conditions of this Act; or”.

(2) Section 43 is amended by adding the following subsection:

“(3) The Secretary may exercise the power of suspension conferred by this section in respect of any breach that falls within any of paragraphs (a) to (c) of subsection (1), whether or not—

“(a) the breach continues at the time that the power is exercised or is proposed to be exercised:

“(b) a penalty is prescribed for the breach.”

**25 Procedure for suspending, cancelling, or refusing to amend or renew class 3 operator’s licence**

(1) Section 44(4) is amended by repealing paragraphs (c) to (e) and substituting the following paragraph:

“(c) the reason for the suspension.”

(2) Section 44 is amended by inserting the following subsection after subsection (4):

“(4A) Where the licence is suspended because of a continuing breach, the Secretary must notify the society of—

“(a) the matters to be dealt with in order for the Secretary to consider withdrawing the suspension before the end of the suspension period; and

“(b) the consequences of not dealing with the matters identified.”

**26 Application for class 4 operator’s licence**

(1) Section 50(2)(c) is amended—

(a) by omitting “risks” and substituting “risk”; and

(b) by inserting “corporate” after “including the”.

(2) Section 50(2) is amended by inserting the following paragraph after paragraph (d):

“(da) in the case of an applicant that proposes to apply some or all of its net proceeds from the class 4 gambling to an authorised purpose, information to assist the Secretary to determine whether the applicant meets the requirements of section 52A(1); and”.

(3) Section 50(2)(e) is amended by omitting “operates mainly to distribute” and substituting “mainly or wholly distributes”.

- (4) Section 50(2)(f) is amended by omitting “class 4 gambling, history in gambling” and substituting “conducting class 4 gambling”.

**27 Secretary must investigate applicant for class 4 operator’s licence**

Section 51(3) is amended by omitting “10” in each place where it appears and substituting in each case “7”.

**28 Grounds for granting class 4 operator’s licence**

- (1) Section 52(1)(g) is amended by omitting “risks” and substituting “risk”.
- (2) Section 52(1)(j) is amended by omitting “club that intends to operate gambling equipment on its own non-commercial premises, the New Zealand Racing Board, or a racing club” and substituting “class 4 venue licence application, which was not or is not required under section 65(3) or (4) to be accompanied by a class 4 venue agreement”.
- (3) Section 52(4)(a) is amended by omitting “10” and substituting “7”.
- (4) Section 52(4)(a) is amended by omitting “; and” and substituting “:” and also by adding the following subparagraphs:
- “(iv) been a director of a company that has been placed in receivership or put into liquidation, and been involved in the events leading to the company being placed in receivership or put into liquidation:
  - “(v) been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993:
  - “(vi) been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006; and”.
- (5) Section 52(4) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) the financial position and credit history of the applicant and each key person; and”.

**29 New section 52A inserted**

The following section is inserted after section 52:

**“52A Circumstances in which corporate society may apply net proceeds to authorised purpose**

- “(1) A corporate society may apply some or all of its net proceeds to an authorised purpose only if the Secretary is satisfied that the corporate society’s primary activity is itself an authorised purpose and the conduct of gambling by the corporate society is only incidental to that activity.
- “(2) When considering whether subsection (1) applies to a corporate society, the Secretary may take the following into account:
  - “(a) whether the corporate society can demonstrate a significant history of carrying out activities that are authorised purposes; and
  - “(b) whether the corporate society’s governing document is consistent with the corporate society having a primary objective of carrying out activities that are authorised purposes.
- “(3) When considering whether subsection (1) applies to a corporate society that is a club, the Secretary may also take the following into account:
  - “(a) whether the club has, or had before merging under section 95, a significant history of operating as a club for club purposes; and
  - “(b) whether the club has substantial active membership.”

**30 Content and conditions of class 4 operator’s licence**

- (1) Section 53(1) is amended by omitting “granted after the commencement of this section”.
- (2) Section 53(2)(a) is amended by omitting “risks of players becoming problem gamblers” and substituting “the risk of problem gambling”.

**31 New section 53A inserted**

The following section is inserted after section 53:

**“53A Continuing obligations of class 4 operator**

Every corporate society that holds a class 4 operator’s licence must, in relation to class 4 gambling conducted by the corporate society, ensure that, at all times,—

- “(a) the purpose of conducting that gambling is to raise money for authorised purposes; and
- “(b) the net proceeds from that gambling are maximised and the operating costs of that gambling are minimised; and
- “(c) the costs incurred in conducting that gambling are actual, reasonable, and necessary; and
- “(d) the net proceeds from that gambling are applied to, or distributed for, authorised purposes; and
- “(e) the risks of problem gambling posed by that gambling are minimised; and
- “(f) all applicable regulatory requirements are complied with.”

**32 Renewal of class 4 operator’s licence**

Section 56 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) The Secretary must refuse to renew a class 4 operator’s licence if—
  - “(a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 52; or
  - “(b) the Secretary is not satisfied that the applicant complies with section 53A; or
  - “(c) the Secretary is not satisfied that the applicant will comply with all applicable regulatory requirements of this Act, including the obligations set out in section 53A, minimum standards, game rules, *Gazette* notices, and licence conditions.”

**33 Amending class 4 operator’s licence**

Section 57 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) The Secretary must refuse to amend a class 4 operator’s licence if—

- “(a) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 52; or
- “(b) the Secretary is not satisfied that the applicant complies with section 53A; or
- “(c) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, including the obligations set out in section 53A, minimum standards, game rules, *Gazette* notices, and licence conditions.”

**34 Suspension or cancellation of class 4 operator’s licence**

- (1) Section 58(1) is amended by repealing paragraph (b) and substituting the following paragraph:
  - “(b) the corporate society is failing, or has failed, to comply with all relevant requirements of this Act, including the obligations set out in section 53A, minimum standards, game rules, *Gazette* notices, and licence conditions; or”.
- (2) Section 58 is amended by adding the following subsection:
- “(3) The Secretary may exercise the power of suspension conferred by this section in respect of any breach that falls within any of paragraphs (a) to (d) of subsection (1) whether or not—
  - “(a) the breach continues at the time that the power is exercised or is proposed to be exercised:
  - “(b) a penalty is prescribed for the breach.”

**35 Procedure for suspending, cancelling, or refusing to amend or renew class 4 operator’s licence**

- (1) Section 59(4) is amended by repealing paragraphs (c) to (e) and substituting the following paragraph:
  - “(c) the reason for the suspension.”
- (2) Section 59 is amended by inserting the following subsection after subsection (4):
  - “(4A) Where the licence is suspended because of a continuing breach, the Secretary must notify the society of—
    - “(a) the matters to be dealt with in order for the Secretary to consider withdrawing the suspension before the end of the suspension period; and

“(b) the consequences of not dealing with the matters identified.”

**36 Application for class 4 venue licence**

- (1) Section 65(2)(d) is amended by omitting “risks” and substituting “risk”.
- (2) Section 65(2)(e) is amended by omitting “class 4 gambling, history in gambling,” and substituting “conducting class 4 gambling,”.
- (3) Section 65(2)(k) is amended by omitting “for a class 4 venue that is not established before the commencement of this section,” and substituting “if the application relates to a venue for which a class 4 venue licence was not held at the time of commencement of this section,”.

**37 Secretary must investigate applicant for class 4 venue licence**

- (1) Section 66(4) is amended by omitting “10” in each place where it appears and substituting in each case “7”.
- (2) Section 66(6) is amended by adding “or (2)”.

**38 Grounds for granting class 4 venue licence**

- (1) Section 67(1)(b) is amended by omitting “minimal” and substituting “minimised”.
- (2) Section 67(1)(l) is amended by omitting “for a class 4 venue that is not established before the commencement of this section,” and substituting “if the application relates to a venue for which a class 4 venue licence was not held at the time of commencement of this section,”.
- (3) Section 67(1)(m) is amended by omitting “to which section 65(3) applies” and substituting “that is required under section 65(3) to be accompanied by a class 4 venue agreement”.
- (4) Section 67(1) is amended by repealing paragraph (s) and substituting the following paragraph:

“(s) the applicant is able to comply with all other applicable regulatory requirements.”

**39 Determining suitability for class 4 venue licence**

Section 68(1)(a) is amended by—

- (a) omitting “he or she has, within the last 10” and substituting “he, she, or it has, within the last 7”; and
- (b) adding the following subparagraphs:
  - “(iv) been a director of a company that has been placed in receivership or put into liquidation, and been involved in the events leading to the company being placed in receivership or put into liquidation:
  - “(v) been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993:
  - “(vi) been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006:

**40 New section 69A inserted**

The following section is inserted after section 69:

**“69A Continuing obligations of corporate society in relation to class 4 venue licence**

A corporate society that holds a class 4 venue licence must, in relation to class 4 gambling conducted at the class 4 venue for which the licence is held, ensure that, at all times,—

- “(a) the possibility of persons under 18 years old gaining access to class 4 gambling at the venue is minimised; and
- “(b) the corporate society owns all gambling equipment (except for electronic monitoring systems) that it operates at the venue; and
- “(c) the corporate society does not operate any gambling equipment that is financed by the manufacturer, distributor, or vendor of the equipment; and
- “(d) all gambling equipment operated at the venue meets relevant minimum standards; and
- “(e) the venue is not used mainly for operating gaming machines; and

- “(f) if the New Zealand Racing Board is the licensee, the venue is used mainly for racing betting or sports betting; and
- “(g) the risk of problem gambling is minimised.”

#### **41 Content and conditions of class 4 venue licence**

- (1) Section 70(1) is amended by omitting “granted after the commencement of this section”.
- (2) Section 70(1) is amended by inserting the following paragraph after paragraph (c):
  - “(ca) the name of the class 4 venue; and”.
- (3) Section 70(2)(a) is amended by omitting “procedures” and substituting “conditions”.
- (4) Section 70(2)(c) is amended by omitting “procedures for banking” and substituting “conditions concerning the banking of”.
- (5) Section 70(2) is amended by inserting the following paragraph after paragraph (f):
  - “(fa) conditions to minimise the possibility of problem gambling at the venue:”.
- (6) Section 70(2)(g) is amended by omitting “procedures to encourage” and substituting “conditions encouraging”.

#### **42 Significant changes in relation to class 4 venue licence must be notified**

- (1) Section 71(1) is amended by inserting the following paragraph after paragraph (d):
  - “(da) the venue manager changes:”.
- (2) Section 71(1)(g) is amended by inserting “, under section 79(1)(a),” after “surrendered”.

#### **43 Renewal of class 4 venue licence**

Section 72 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) The Secretary must refuse to renew a class 4 venue licence if—
  - “(a) the applicant does not hold the associated operator’s licence; or



- “(b) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 67; or
- “(c) the Secretary is not satisfied that the applicant complies with section 69A; or
- “(d) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, including the obligations set out in section 69A, minimum standards, game rules, *Gazette* notices, and licence conditions.”

#### **44 Amending class 4 venue licence**

Section 73 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) The Secretary must refuse to amend a class 4 venue licence if—
  - “(a) the applicant does not hold the associated operator’s licence; or
  - “(b) any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 67; or
  - “(c) the Secretary is not satisfied that the applicant complies with section 69A; or
  - “(d) the Secretary is not satisfied that the applicant will comply with all relevant requirements of this Act, including the obligations set out in section 69A, minimum standards, game rules, *Gazette* notices, and licence conditions.”

#### **45 Suspension or cancellation of class 4 venue licence**

- (1) Section 74(1) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) the corporate society is failing, or has failed, to comply with all relevant requirements of this Act, including the obligations set out in section 69A, minimum standards, game rules, *Gazette* notices, and licence conditions; or”.

- (2) Section 74 is amended by adding the following subsection:

“(3) The Secretary may exercise the power of suspension conferred by this section in respect of any breach that falls within any of paragraphs (a) to (d) of subsection (1) whether or not—

“(a) the breach continues at the time that the power is exercised or is proposed to be exercised:

“(b) a penalty is prescribed for the breach.”

**46 Procedure for suspending, cancelling, or refusing to amend or renew class 4 venue licence**

(1) Section 75(4) is amended by repealing paragraphs (c) to (e) and substituting the following paragraph:

“(c) the reason for the suspension.”

(2) Section 75 is amended by inserting the following subsection after subsection (4):

“(4A) Where the licence is suspended because of a continuing breach, the Secretary must notify the society of—

“(a) the matters to be dealt with in order for the Secretary to consider withdrawing the suspension before the end of the suspension period; and

“(b) the consequences of not dealing with the matters identified.”

**47 Certain information must be displayed at class 4 venue**

Section 82(1)(c) is amended by—

(a) inserting “mainly or wholly” after “are”; and

(b) repealing subparagraph (ii) and substituting the following subparagraph:

“(ii) the corporate society’s contact details for submitting complaints regarding the distribution of net proceeds; and

**48 Obligation on disposal of gaming machines**

(1) Section 83(1) is amended by inserting “or former holder” after “holder”.

(2) Section 83(1) is amended by inserting the following paragraph before paragraph (a):

- “(aa) the manufacturer, model, and serial number of the gaming machine and any other details necessary to identify the gaming machine with ease; and”.
- (3) Section 83(1)(b) is amended by inserting “if relevant,” before “the name”.
- (4) Section 83(2) is amended by inserting “or former holder” after “holder”.

**49 Disabling gambling equipment**

Section 85(6) is amended by inserting “or a person appointed under section 88 to implement and operate the system” after “Crown”.

**50 Holder of class 4 operator’s licence must connect to electronic monitoring system**

- (1) Section 86 is amended by repealing subsection (1) and substituting the following subsection:
  - “(1) The holder of a class 4 operator’s licence must connect the following gambling equipment to an electronic monitoring system specified by the Secretary in a notice to the holder:
    - “(a) all gaming machines under the holder’s control; and
    - “(b) any other gambling equipment, or classes of gambling equipment, specified by the Secretary by notice in the *Gazette*.”
- (2) Section 86(3) is amended by repealing paragraph (a) and substituting the following paragraph:
  - “(a) to particular corporate societies or classes of corporate society:”.
- (3) Section 86(4) is repealed.
- (4) Section 86 is amended by adding the following subsection:
  - “(6) A notice under subsection (1)(b) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.”

**51 Secretary may select monitor**

Section 88 is amended by adding the following subsection as subsection (2):

“(2) Despite subsection (1), the Secretary may appoint 1 or more persons that the Secretary considers to be suitable to implement and operate 1 or more electronic monitoring systems in order to facilitate the transfer of an electronic monitoring system from the person appointed under subsection (1) to another person.”

**52 Limit on number of gaming machines for which class 4 venue licence held on 17 October 2001**

Section 92(2) and (3) are amended by omitting “society” and substituting in each case “corporate society”.

**53 Limit on number of gaming machines for which class 4 venue licence granted after 17 October 2001 but before commencement**

- (1) Section 93(2) is amended by omitting “society” and substituting “corporate society”.
- (2) Section 93(3) to (7) are repealed.
- (3) Section 93(8) is amended by omitting “society” and substituting “corporate society”.

**54 Ministerial discretion to permit more gaming machines if clubs merge**

- (1) Section 95(1)(c) is amended by omitting “to which section 92 applies”.
- (2) Section 95 is amended by repealing subsection (3) and substituting the following subsection:

“(3) The Minister may approve an application under subsection (2) as the Minister sees fit.”
- (3) Section 95(6) is amended by—
  - (a) omitting from paragraph (a) “the previous” and substituting “any previous”; and
  - (b) repealing paragraph (b) and substituting the following paragraph:

“(b) a corporate society may not, within 6 months after the cancellation, submit an application for a class 4 venue licence in relation to any of the class 4 venues referred to in paragraph (a).

**55 Ministerial discretion to permit more than 9 machines at certain class 4 venues**

(1) Section 96 is amended by repealing subsection (3) and substituting the following subsection:

“(3) The Minister may approve an application under subsection (2) as the Minister sees fit.”

(2) Section 96 is amended by inserting the following subsection after subsection (5):

“(5A) On the issue of a new class 4 venue licence,—

“(a) the Secretary must cancel any previous class 4 venue licences held by the corporate society, and there is no right of appeal against that cancellation; and

“(b) a corporate society may not, within 6 months after the cancellation, submit an application for a class 4 venue licence in relation to any of the class 4 venues referred to in paragraph (a).”

**56 New section 98 substituted**

Section 98 is repealed and the following section substituted:

**“98 When territorial authority consent required**

A territorial authority consent is required in the following circumstances:

“(a) if a corporate society proposes to increase the number of gaming machines that may be operated at a class 4 venue (whether by way of an application for, or amendment to, a class 4 venue licence, and whether or not in association with an application for ministerial discretion under section 95 or 96):

“(b) if a corporate society applies for a class 4 venue licence and a class 4 venue licence has not been held by any corporate society for the venue within the last 6 months:

“(c) if a corporate society proposes, in accordance with a relocation policy of the territorial authority, to change the venue to which a class 4 venue licence currently applies.”

**57 Considering and determining application for territorial authority consent**

- (1) Section 100(1)(a) is amended by inserting “and determine” after “consider”.
- (2) Section 100(1)(b)(i) is amended by inserting “(but with no other condition)” after “venue”.
- (3) Section 100 is amended by adding the following subsection:  
“(5) A territorial authority consent for a class 4 venue expires 6 months after its date of issue if no application for a class 4 venue licence in relation to the venue has been submitted.”

**58 Adoption and review of class 4 venue policy**

Section 102(1)(a) is amended by inserting “corporate” after “each”.

**59 Provision of information relating to class 4 venues in territorial authority district**

Section 103(a) is amended by inserting “corporate” after “each”.

**60 Gaming machine profits must be banked**

- (1) Section 104 is amended by repealing subsection (1) and substituting the following subsection:  
“(1) A venue manager must bank all gaming machine profits from class 4 gambling directly into a dedicated account for gaming machine profits specified by, and in the name of, the holder of the class 4 operator’s licence at a registered bank in New Zealand.”
- (2) Section 104(2) is amended by omitting “The gaming machine profits must be banked ” and substituting “The venue manager must bank the gaming machine profits”.
- (3) Section 104 is amended by repealing subsection (3) and substituting the following subsection:  
“(3) If a venue manager contravenes subsection (1) or (2), the holder of the class 4 operator’s licence—  
“(a) must advise the Secretary of the contravention as soon as possible after becoming aware of the contravention; and

- “(b) must immediately—
    - “(i) take steps to disable all gaming machines at the class 4 venue and advise the Secretary of the disablement; or
    - “(ii) request the Secretary to disable all gaming machines at the class 4 venue by means of the electronic monitoring system; and
  - “(c) must not subsequently enable, or if paragraph (b)(ii) applies, request the Secretary to enable, the gaming machines at the class 4 venue until the gaming machine profits have been banked in accordance with subsection (1).”
- (4) Section 104(4) is amended by omitting “subsection (1) or (3)” and substituting “this section”.
- (5) Section 104 is amended by repealing subsection (5) and substituting the following subsection:
- “(5) In this section and sections 105 and 105A, **gaming machine profits** means the turnover of class 4 gambling minus the total prizes paid.”

**61 Interest, etc, on gaming machine profits**

- (1) Section 105 is amended by repealing subsection (1) and substituting the following subsection:
- “(1) The holder of a class 4 operator’s licence must ensure that the interest or other investment return on the gaming machine profits referred to in section 104, plus any gain above the book value from the sale of gambling assets, is credited directly to or banked directly into (as the case may be) a dedicated account for gaming machine profits in the name of the holder of the class 4 operator’s licence at a registered bank in New Zealand.”
- (2) Section 105(3) is repealed.

**62 New section 105A inserted**

The following section is inserted after section 105:

**“105A Management of gaming machine profits bank account**

- “(1) The holder of a class 4 operator’s licence must not meet the costs of the class 4 gambling operation or apply funds to, or

distribute funds for, authorised purposes except from a dedicated account for gaming machine profits referred to in section 104(1) or 105(1).

- “(2) Unless the Secretary gives consent to some or all of the gaming machine profits, interest, investment return, and any gain above the book value from the sale of gambling assets being transferred to another bank account, the gaming machine profits, interest, investment return, and any gain above the book value from the sale of gambling assets must remain in the account for the gaming machine profits until the class 4 operator either—
- “(a) uses the gaming machine profits, interest, investment return, and any gain above the book value from the sale of gambling assets to meet the costs of the class 4 gambling operation; or
  - “(b) applies the gaming machine profits, interest, investment return, and any gain above the book value from the sale of gambling assets to, or distributes the gaming machine profits, interest, investment return, and any gain above the book value from the sale of gambling assets for, authorised purposes.
- “(3) A holder of a class 4 operator’s licence who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$5,000.”

**63 Corporate society must apply or distribute net proceeds from class 4 gambling to or for authorised purpose**

- (1) Section 106 is amended by inserting the following subsection after subsection (1):
- “(1A) To avoid doubt, the requirement in subsection (1) for a corporate society to apply or distribute the net proceeds from class 4 gambling is subject to the restriction in section 52A relating to the circumstances in which a corporate society may apply, rather than distribute, those net proceeds.”
- (2) Section 106(3)(b) is amended by inserting “applied or” after “yet”.



**64 Contents of annual report**

Section 108(1) is amended by inserting “to or” after “gambling”.

**65 Annual review of criteria for distribution of net proceeds**

Section 109 is amended by omitting “operates mainly to distribute” and substituting “mainly or wholly distributes”.

**66 Publication requirements for corporate societies**

- (1) Section 110(1) is amended by omitting “conducts class 4 gambling mainly to distribute” and substituting “mainly or wholly distributes”.
- (2) Section 110(3)(c) is amended by inserting “net” after “distribution of”.

**67 Application or distribution of net proceeds when corporate society ceases class 4 gambling**

Section 111 is amended by repealing subsection (1) and substituting the following subsections:

- “(1) A corporate society that has not operated class 4 gambling for a period of more than 4 weeks must, unless it has notified the Secretary and the Secretary has agreed that it may remain inactive for a further specified period,—
- “(a) report to the Secretary within 20 working days of the end of that 4-week period on how and when it proposes to apply or distribute the remaining net proceeds to or for authorised purposes; and
  - “(b) promptly sell all gambling assets and apply or distribute any gain above the book value from the sale of gambling assets to or for authorised purposes; and
  - “(c) promptly apply or distribute all other remaining net proceeds from its conduct of class 4 gambling to or for authorised purposes.
- “(1A) A corporate society that has applied or distributed net proceeds in accordance with subsection (1)(b) or (c) must report to the Secretary on the relevant standard form, within 5 working days of the application or distribution to or for authorised purposes, on—

- “(a) any gain above the book value from the sale of gambling assets; and
- “(b) the final application or distribution of net proceeds from class 4 gambling under subsection (1).”

**68 Key persons must not be involved in certain activities or decisions**

- (1) Section 113 is amended by omitting “in relation to a venue” in each place where it appears and substituting in each case “in relation to a class 4 venue licence”.
- (2) Section 113(1) is amended by omitting “to which section 65(3) applies” and substituting “, the application for which was required under section 65(3) to be accompanied by a class 4 venue agreement,”.
- (3) Section 113(1) is amended by repealing paragraph (c) and substituting the following paragraph:
  - “(c) provide, or be involved in decisions about who will provide, goods or services to the corporate society that conducts gambling at the class 4 venue; or”
- (4) Section 113 is amended by inserting the following subsection after subsection (1):

“(1A) Subsection (1)(c) does not apply—

  - “(a) to a person who is a key person in relation to the class 4 venue licence only because that person services gambling equipment at the class 4 venue; or
  - “(b) to the provision of services listed in the class 4 venue agreement.”

**69 Regulations regarding application or distribution of net proceeds from class 4 gambling**

- (1) Section 114(1)(a) is amended by omitting “apply” and substituting “allocate for application, apply,”.
- (2) Section 114(1)(b) is amended by inserting “to or for authorised purposes” after “distribution”.

**70 New section 115A inserted**

The following section is inserted after section 115:

**“115A Duty on grant recipients**

- “(1) A grant recipient who receives a grant of net proceeds from class 4 gambling must use the grant—
- “(a) only for the specific authorised purpose for which it was granted; and
  - “(b) in accordance with any conditions consistent with this Act attaching to the grant.
- “(2) A grant recipient who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000.”

**71 Secretary may limit or exclude costs of corporate society**

Section 116 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) The Secretary may, by notice in the *Gazette*,—
- “(a) set limits on, or exclude, the costs that may be incurred by a corporate society that conducts class 4 gambling:
  - “(b) set the rates of depreciation for gambling assets acquired by a corporate society in respect of class 4 gambling.”

**72 Secretary may investigate and audit licensees, grant recipients, and businesses at class 4 venues**

Section 117(1) is amended by inserting “, application,” after “generation”.

**73 Certain persons must not seek, receive, or offer benefits with conditions attached**

- (1) Section 118 is amended by inserting the following subsection after subsection (3):
- “(3A) Any other person involved in making decisions on grant applications made to the holder of a class 4 operator’s licence must not knowingly receive or seek money, a benefit, an advantage, a privilege, or a gift from a grant recipient (or potential grant recipient) if the receipt has a condition attached to it, and whether the receipt or condition is direct, indirect, formal, informal, or otherwise.”

- (2) Section 118(6)(a) and (b) are amended by inserting “, benefit, advantage, privilege, or gift” after “money”.

**74 Suitability requirements**

Section 124(2)(b) is amended by adding the following subparagraphs:

- “(iv) whether the applicant or person has been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993; and
- “(v) whether the applicant or person has been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006; and”.

**75 Conditions of casino licence**

Section 139(2)(b) is amended by omitting “purposes” and substituting “purpose”.

**76 Notification of suspension and cancellation**

- (1) Section 146 is amended by inserting the following subsection after subsection (1):

“(1A) The Gambling Commission may exercise the power of suspension conferred by this section in respect of any breach that falls within section 144(a) or (c) whether or not—

“(a) the breach continues at the time that the power is exercised or is proposed to be exercised:

“(b) a penalty is prescribed for the breach.”

- (2) Section 146(2) is amended by repealing paragraphs (c) and (d) and substituting the following paragraph:

“(c) where the casino licence is suspended because of a continuing breach,—

“(i) the matters to be dealt with in order for the Gambling Commission to consider withdrawing

the suspension before the end of the suspension period; and

“(ii) the consequences of not dealing with the matters identified; and”.

- (3) Section 146(2)(e) is amended by omitting “section 148” and substituting “section 235”.
- (4) Section 146(3) is amended by omitting “section 148” and substituting “section 235”.

**77 Section 148 repealed**  
Section 148 is repealed.

**78 Review of associated persons by Secretary**  
Section 155(3) is amended by omitting “subsection (1)” and substituting “subsection (2)”.

**79 Information and matters that Secretary may take into account**  
Section 161(1)(b) is amended by adding “; and” and also by adding the following subparagraphs:

“(iv) whether the applicant has been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993; and

“(v) whether the applicant has been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006.”

**80 Expiry of certificate of approval**  
Section 164 is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) 12 months after the holder of the certificate of approval ceases to be employed by, or contracted to, the holder of a casino licence—

- “(i) to do activities to which section 158(2) applies;  
or
- “(ii) to perform the services referred to in section 158(4); or
- “(iii) as a casino employee in any class prescribed in regulations made under section 371(1)(f); or”.

**81 Application for suspension or cancellation of certificate of approval**

Section 166(6) is amended by omitting “applicant” in the first place where it appears and substituting “holder of the certificate of approval”.

**82 Obligation on disposing of gaming machine**

- (1) The heading to section 179 is amended by omitting “**disposing of gaming machine**” and substituting “**disposal of gaming machines**”.
- (2) Section 179(1) is amended by inserting the following paragraph before paragraph (a):
  - “(aa) the manufacturer, model, and serial number of the gaming machine and any other details necessary to identify the gaming machine with ease; and”.
- (3) Section 179(1)(a) is amended by omitting “:” and substituting “; and”.
- (4) Section 179(1)(b) is amended by inserting “if relevant,” before “the name”.

**83 Grounds for granting licensed promoter’s licence**

- (1) Section 201(1) is amended by adding “and will comply with all relevant requirements of this Act”.
- (2) Section 201 is amended by repealing subsection (2) and substituting the following subsection:
  - “(2) In determining whether an applicant is suitable for a licensed promoter’s licence, the Secretary may investigate and take into account the following things:
    - “(a) whether the applicant or a key person has, within the last 7 years,—
      - “(i) been convicted of a relevant offence:

- “(ii) held, or been a key person in relation to, a licence under this Act or previous gaming Acts that has been cancelled, or suspended, or for which an application for renewal has been refused:
- “(iii) been placed in receivership, gone into liquidation, or been adjudged bankrupt:
- “(iv) been a director of a company that has been placed in receivership or put into liquidation, and been involved in the events leading to the company being placed in receivership or put into liquidation:
- “(v) been prohibited or disqualified from acting as a director or promoter of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993:
- “(vi) been prohibited from acting as a director or directly or indirectly being concerned, or taking part, in the management of a company under section 299 of the Insolvency Act 2006:
- “(b) the profile of past compliance by the applicant and each key person with—
  - “(i) this Act, minimum standards, game rules, *Gazette* notices, and licence conditions; and
  - “(ii) the Racing Act 2003 or the Racing Act 1971 (and any rules of racing made under either of those Acts); and
  - “(iii) previous gaming Acts, and regulations made under previous gaming Acts; and
  - “(iv) a licence or a site approval issued under a previous gaming Act; and
- “(c) the financial position and credit history of the applicant and each key person.”

#### **84 New section 203A inserted**

The following section is inserted after section 203:

##### **“203A Significant changes in relation to licensed promoter’s licence must be notified**

- “(1) A licensed promoter must notify the Secretary and provide details of significant changes to the information supplied in, or

accompanying, an application for a licence or an amendment to or renewal of a licence.

- “(2) Notification must occur before, or as soon as practicable after, the changes occur.
- “(3) The powers and obligations in section 200 apply to a notification of changes as if the notification were an application for a licensed promoter’s licence.
- “(4) The Secretary may require the licensed promoter to apply for an amendment to the licence under section 205A or may invoke the suspension or cancellation provisions under section 206 or 207 as a result of the notification of changes.”

**85 Heading above section 205 amended**

The heading above section 205 is amended by inserting “*or amendment*” after “*Renewal*”.

**86 Renewal of licensed promoter’s licence**

Section 205(3) is amended by omitting “200” and substituting “193, 200,”.

**87 New section 205A inserted**

The following section is inserted after section 205:

**“205A Amending licensed promoter’s licence**

- “(1) A licensed promoter must apply to the Secretary to amend that licensed promoter’s licence if he, she, or it proposes to make any change that impacts on the licensed promoter’s ability to continue to comply with this Act or the licence.
- “(2) An application must be on the relevant standard form.
- “(3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- “(4) Sections 200 and 201 apply to an application for amendment as if it were an application for a licensed promoter’s licence.
- “(5) The Secretary must refuse to amend a licensed promoter’s licence if any investigations carried out by the Secretary cause the Secretary not to be satisfied about any of the matters specified in section 201.”



**88 New section 225A inserted**

The following section is inserted after section 225:

**“225A Protection of Gambling Commission and Department**

- “(1) The Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission under section 228 is not liable—
- “(a) for any act or omission by reason only of being the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing those services; or
  - “(b) for any act or omission by him or her, in the performance or intended performance of the Gambling Commission’s functions, unless done in bad faith.
- “(2) The Secretary may indemnify the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission under section 228 for costs incurred by him or her in a proceeding that relates to acts or omissions by him or her in good faith in the performance or intended performance of the Gambling Commission’s functions.
- “(3) The Secretary may effect insurance for the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission under section 228 in relation to—
- “(a) liability (other than criminal liability) for any act or omission in the performance or intended performance of the Gambling Commission’s functions; and
  - “(b) costs incurred in any proceeding relating to that liability or in any criminal proceedings.
- “(4) In this section,—
- “(a) references to the Chief Gambling Commissioner, a Gambling Commissioner, or a person providing services to the Gambling Commission include references to a former Chief Gambling Commissioner, a former Gambling Commissioner, and a person who formerly provided services to the Gambling Commission under section 228;
  - “(b) **effect insurance** and **indemnify** have the same meanings as in section 294.”

**89 Gambling Commission to sit in divisions**

- (1) The heading to section 227 is amended by omitting “to” and substituting “may”.
- (2) Section 227 is amended by repealing subsections (1) and (2) and substituting the following subsections:
  - “(1) The Gambling Commission may, as it thinks fit, sit as a division to carry out any of its functions under section 224.
  - “(2) If the Gambling Commission decides to sit as a division, the division must consist of up to 3 members, including the Chief Gambling Commissioner or a Gambling Commissioner acting on behalf of the Chief Gambling Commissioner.”
- (3) Section 227(4) to (6) are repealed.

**90 Appeals**

- (1) Section 235(4) is amended by inserting “or the date of the High Court decision (as the case may be)” after “decision”.
- (2) Section 235 is amended by inserting the following subsection after subsection (4):
  - “(4A) To avoid doubt, a casino licence remains in force (unless it expires or is surrendered) until all appeals are decided, or the period for appeal expires.”

**91 Functions of Lotteries Commission**

Section 238(b) is amended by omitting “risks of problem gambling and underage gambling are” and substituting “risk of problem gambling and underage gambling is”.

**92 Board of Lotteries Commission**

Section 240(1) is amended by omitting “5 members” and substituting “at least 2, and not more than 9, members”.

**93 Crown entity**

Section 291 is amended by omitting “is” in the second place where it appears.

**94 Subpart 4 repealed**

Subpart 4 of Part 3 is repealed.

**Part 3**  
**Amendments to provisions relating to**  
**harm prevention and minimisation,**  
**enforcement, and other matters**

- 95 Age restriction on instant games and similar games**  
Section 301(5) is amended by omitting “he or she” and substituting “the defendant”.
- 96 Age restriction on class 4 gambling**  
Section 302(5) and (6) are amended by omitting “he or she” and substituting in each case “the defendant”.
- 97 Age restriction on gambling in casinos**  
Section 303(3) and (4) are amended by omitting “he or she” and substituting in each case “the defendant”.
- 98 Requirement to develop policy for identifying problem gamblers**
- (1) Section 308(3) is amended by omitting “The holder of a class 4 venue licence or” and substituting “The venue manager or the holder of a”.
- (2) Section 308 is amended by repealing subsection (4) and substituting the following subsection:
- “(4) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, must take all reasonable steps to ensure that the policy is used to identify actual or potential problem gamblers.”
- (3) Section 308 is amended by adding the following subsection:
- “(6) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, who contravenes subsection (4) commits an offence and is liable on conviction to a fine not exceeding \$5,000.”
- 99 Exclusion order may be issued to problem gambler identified under section 308**
- (1) Section 309(1) is amended by omitting “or she” and substituting “, she, or it”.

- (2) Section 309(3) and (4) are amended by inserting “, or a person acting on behalf of either of those persons,” after “licence”.

**100 New section 309A inserted**

The following section is inserted after section 309:

**“309A Duty to assist problem gambler if ongoing concern exists**

A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, must take all reasonable steps to assist a person including, if appropriate, issuing the person with an exclusion order under section 309(3) if—

- “(a) the venue manager or the holder of the casino operator’s licence, or a person acting on behalf of either of those persons, has already approached the person and provided information or advice to the person about problem gambling under section 309(1); and
- “(b) the person has not requested that he or she be issued with an exclusion order under section 310(1) (which relates to the exclusion of a self-identified problem gambler); and
- “(c) the person’s ongoing gambling or other behaviour at the venue means that the venue manager or the holder of the casino operator’s licence, or a person acting on behalf of either of those persons, still has reasonable grounds to believe that the person is a problem gambler.”

**101 Exclusion order must be issued to self-identified problem gambler**

- (1) Section 310(1)(a) and (b) are amended by inserting “, or a person acting on behalf of either of those persons,” after “licence”.
- (2) Section 310(1)(b) is amended by inserting “gambling area of the” after “entering the”.
- (3) Section 310 is amended by inserting the following subsection after subsection (1):

“(1A) A venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, may refuse to issue an exclusion order under subsection (1) if—

- “(a) the person requesting the order fails or refuses to comply with a request to—
    - “(i) provide the person’s name and date of birth; and
    - “(ii) either provide a recent photograph of the person or consent to a photograph of him or her being taken; or
  - “(b) the quality of the photograph referred to in paragraph (a)(ii) is such that the person cannot be readily identified.”
- (4) Section 310(2) is amended by inserting “, or a person acting on behalf of either of those persons,” after “licence”.

**102 New section 312 substituted**

Section 312 is repealed and the following section substituted:

**“312 Offences relating to breach of exclusion order**

- “(1) Every person commits an offence who enters the gambling area of a class 4 venue or casino venue—
- “(a) in breach of an exclusion order issued under section 309(3) or 310(1); or
  - “(b) in breach of a condition of re-entry imposed under section 309(4) or 310(2).
- “(2) Every venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, commits an offence who, after having received a request under section 310(1) that includes the information specified in section 310(1A), fails to issue an exclusion order to a self-identified problem gambler.
- “(3) Every venue manager or the holder of a casino operator’s licence, or a person acting on behalf of either of those persons, commits an offence who—
- “(a) allows a person who is subject to an exclusion order under section 310(1) to enter the gambling area of a class 4 venue or casino venue; or
  - “(b) fails to remove a person who has entered those areas—
    - “(i) in breach of an exclusion order issued under section 310(1); or
    - “(ii) in breach of a condition of re-entry imposed under section 310(2).

- “(4) It is a defence to a charge under subsection (3) if the defendant proves that—
- “(a) there were procedures in place at the venue to prevent a person subject to an exclusion order issued under section 310(1) from entering, or remaining in, the gambling area of the class 4 venue or casino venue; and
  - “(b) the defendant had reasonable grounds to believe that those procedures would be effective in preventing a person subject to an exclusion order issued under section 310(1) from entering, or remaining in, the gambling area of the class 4 venue or casino venue; and
  - “(c) despite the breach of subsection (3), the defendant took all reasonable steps to ensure that those procedures were complied with.
- “(5) Every person who commits an offence—
- “(a) against subsection (1) is liable on conviction to a fine not exceeding \$500;
  - “(b) against subsection (2) or (3) is liable on conviction to a fine not exceeding \$5,000.”

### 103 New section 312A inserted

The following section is inserted after section 312:

#### “312A Duty to keep record of excluded persons

Every holder of a class 4 venue licence or casino operator’s licence must,—

- “(a) in relation to each person excluded from the class 4 venue or casino venue (as the case may be), keep a record of—
  - “(i) the person’s name and date of birth (if provided); and
  - “(ii) whether the person was excluded from the venue under section 309 or 310; and
  - “(iii) the date on which the exclusion order was issued and the date of its expiry; and
  - “(iv) any conditions imposed on the person’s re-entry to the venue; and
- “(b) provide the person’s initials and date of birth and the information referred to in paragraph (a)(ii) to (iv) to the Secretary if requested to do so by the Secretary.”

**104 Regulations relating to harm prevention and minimisation**

- (1) Section 313(1) is amended by inserting the following paragraph after paragraph (b):  
“(ba) restricting or prohibiting inducements to gamble.”.
- (2) Section 313(1)(e) is amended by omitting “that may be conducted at a specified venue”.
- (3) Section 313(1)(e)(iii) is amended by inserting “information or” after “frequency of”.
- (4) Section 313(1) is amended by inserting the following paragraph after paragraph (e):  
“(ea) regulating the transfer of money to a gaming machine.”.
- (5) Section 313(1)(f) is amended by omitting “to persons about particular forms of gambling or classes of gambling”.
- (6) Section 313(1) is amended by repealing paragraph (g) and substituting the following paragraph:  
“(g) restricting or prohibiting the advertising of gambling, gambling delivery mechanisms, gambling venues, gambling prizes, or any other thing related to gambling, or prescribing codes requiring such advertising to be responsible.”.
- (7) Section 313(1) is amended by inserting the following paragraph after paragraph (h):  
“(ha) specifying minimum standards or content for problem gambling awareness training.”.
- (8) Section 313(1)(i) is amended by inserting the following subparagraph after subparagraph (ii):  
“(iia) the availability of EFTPOS devices in close proximity to gambling equipment at a venue.”.
- (9) Section 313(2) is amended by repealing paragraph (d) and substituting the following paragraph:  
“(d) to any particular games, or classes of games, or categories, classes, or forms of gambling.”.

**105 Regulations relating to exclusion of problem gamblers**

- (1) Section 316(1)(a) is repealed and the following paragraph substituted:

- “(a) prescribing 1 or more procedures to enable a venue manager, the holder of a class 4 operator’s licence or the holder of a casino operator’s licence, or a person acting on behalf of any of those persons, to identify problem gamblers (including the sources of information that must or may be considered or sought to assist in identifying problem gamblers):”.
- (2) Section 316(2) is amended by omitting “must” and substituting “may”.

**106 Process for developing integrated problem gambling strategy**

Section 318(1)(e) is repealed and the following paragraph substituted:

- “(e) take into account any under-recovery or over-recovery of levy (gambling sector by gambling sector) in previous levy periods; and”.

**107 Calculating levy**

- (1) The formula in section 320(2) is amended by inserting “ $\pm R$ ” after “ $\times C$ ”.
- (2) Section 320(2) is amended by inserting the following item after the item relating to “D”:
  - “R is the estimated under-recovery or over-recovery of levy from a sector in previous levy periods”.
- (3) Section 320(3) is amended by omitting “calculating the levy rate under subsection (2)” and substituting “this section”.
- (4) Section 320(3)(a) is amended by omitting “in amount A,”.
- (5) Section 320(3)(a)(ii) is amended by omitting “section 12B of the Gaming Duties Act 1971” and substituting “section 104(5)”.
- (6) Section 320(3)(b)(i) is amended by inserting “or the department responsible for the administration of this Act” after “Department”.
- (7) Section 320(3)(c) is repealed and the following paragraph substituted:
  - “(c) the proposed amount of C must take into account the approximate cost to Government of the integrated prob-



lem gambling strategy in the 3-year period for which the levy is payable.”.

- (8) Section 320(3)(d)(i) is amended by inserting “or the department responsible for the administration of this Act” after “Department”.

**108 New section 320A inserted**

After section 320, insert:

**“320A Levy may be calculated for period of less than 3 years**

- “(1) Sections 319 and 320 authorise (but do not require) the calculation of the levy on the basis that—
- “(a) it will be payable only for a period that commences part-way through the 3-year period to which it relates; but
  - “(b) it is set at a rate sufficient to recover the full cost of the integrated problem gambling strategy for the whole of that 3-year period.
- “(2) Subsection (1) is for the avoidance of doubt.”

**109 Section 321 repealed**

Section 321 is repealed.

**110 Section 325 repealed**

Section 325 is repealed.

**111 New section 326A inserted**

The following section is inserted after section 326:

**“326A Temporary operation of gambling equipment for research or evaluation purposes**

- “(1) Despite section 326, the Secretary may, by notice in the *Gazette*, declare that any gambling equipment may be temporarily operated at a class 4 venue or casino venue without complying with minimum standards if—
- “(a) the operation of the gambling equipment is primarily for research or evaluation purposes for the purpose of this Act; and
  - “(b) the methodology of the research or evaluation proposal is approved by the department responsible for the integrated problem gambling strategy; and

- “(c) the gambling equipment used for the research or evaluation purposes is to be operated for no longer than 12 months; and
  - “(d) the operation of the gambling equipment complies with all other relevant requirements of this Act.
- “(2) A declaration made under subsection (1) must include the following information and conditions:
- “(a) the purpose of the research or evaluation; and
  - “(b) the commencement and expiry date of the research or evaluation; and
  - “(c) the name of the gambling operator who will conduct the gambling at the venue at which the research or evaluation will take place; and
  - “(d) the address and a description of the venue at which the gambling will be conducted; and
  - “(e) details of the gambling equipment that may be operated at the venue for the research or evaluation purposes; and
  - “(f) any other conditions that the Secretary thinks fit, including conditions relating to—
    - “(i) the management of the research or evaluation:
    - “(ii) the ownership of the data generated by the research or evaluation:
    - “(iii) the management of the gambling that will be conducted, including records that must be kept and reporting requirements:
    - “(iv) the need to minimise the possibility of problem gambling while conducting the research or evaluation:
    - “(v) the need to encourage responsible gambling while conducting the research or evaluation:
    - “(vi) the areas within a venue that are the only areas permitted for operating gambling equipment in conducting the research or evaluation; and
  - “(g) any other conditions consistent with this Act that the Secretary considers will promote or ensure compliance with this Act.
- “(3) The Secretary may revoke an approval given under subsection (1) at any time during the conduct of the research or evaluation.

- “(4) The Secretary may consider a request from any person to make a declaration under subsection (1).”

**112 Functions of gambling inspector**

- (1) Section 332(c) is amended by omitting “societies” and substituting “gambling operators”.
- (2) Section 332(d) is amended by inserting “or conducting gambling” after “gambling” in the first place where it appears.

**113 Power of gambling inspector to require information or documents**

Section 333(2) is amended by inserting “or documents” after “information” in each place where it appears.

**114 Power of gambling inspector to enter and demand information**

- (1) Section 334(1)(b) is amended by omitting “operation” and substituting “conduct”.
- (2) Section 334(3)(a) is amended by adding “or the conduct of gambling”.

**115 Power of gambling inspector to seize equipment in public place**

Section 336(6)(b) is amended by adding “or the conduct of gambling”.

**116 Search warrants**

Section 340(4)(b) is amended by adding “or the conduct of gambling”.

**117 Regulations relating to infringement offences**

- (1) Section 360(b)(i) is amended by omitting “\$50,000” and substituting “\$5,000”.
- (2) Section 360(b)(ii) is amended by omitting “\$10,000” and substituting “\$2,500”.

**118 Evidence of bookmaking**

Section 362(1)(b) is amended by omitting “and” and substituting “or”.

**119 Information gathering**

Section 365 is amended by adding the following subsection:

- “(4) For the purposes of this section, the Secretary—
- “(a) may specify the types of information that may be required under subsection (1) or (2); and
  - “(b) may specify the manner and form in which that information must be collected and provided to the Secretary; and
  - “(c) may require that information to be provided regularly, at specified intervals or in respect of specified periods; and
  - “(d) must make any statistical information collated by the Secretary from that information available on the Department’s Internet site, or in another electronic form that is easily accessible to the public, within a reasonable time after that information is collated.”

**120 Power to make game rules**

Section 367 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) The Secretary may make rules and amend or revoke rules made—
- “(a) for playing or participating in particular games or classes of games, or categories, classes, or forms of gambling; and
  - “(b) for the systems, processes, information, and documentation associated with particular games or classes of games, or categories, classes, or forms of gambling.”

**121 Regulations relating to forms of gambling and gambling equipment**

- (1) Section 368(a) is amended by inserting “, or type of act, behaviour, or transaction” after “transaction”.

- (2) Section 368(b) is amended by inserting “, or type of machine, device, or thing” after “thing”.

**122 New section 370A inserted**

The following section is inserted after section 370:

**“370A Regulations relating to offences**

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- “(a) prescribing offences in respect of the contravention of any regulation or game rule made under this Act:
- “(b) prescribing the penalty for each offence under paragraph (a), which,—
  - “(i) in the case of a licence holder, must not exceed \$10,000:
  - “(ii) in the case of an individual, must not exceed \$5,000.”

**123 Other regulations**

- (1) Section 371(1)(d) is amended by omitting “class 4”.
- (2) Section 371(1) is amended by inserting the following paragraphs after paragraph (d):
  - “(da) specifying the time frame within which, and the accounts from which, the costs incurred in conducting gambling must be met:
  - “(db) specifying the time frame within which, and the accounts from which, funds must be applied to or distributed for authorised purposes:”.
- (3) Section 371(2)(d) is amended by omitting “classes of game” and substituting “classes of games, or categories, classes, or forms of gambling”.

**124 Consultation before regulation**

Section 372(1) is amended by—

- (a) inserting “86,” after “21,”; and
- (b) inserting “370A,” after “370,”.

## Part 4

### Repeals and other amendments

**125 Section 373 repealed**  
Section 373 is repealed.

**126 Savings**  
Section 376(2) is repealed.

**127 Schedule 6 amended**

(1) Schedule 6 is amended by omitting the items relating to sections 104 and 105 and substituting the following items:

s 104	Banking and other related requirements for gaming machine profits	\$2,500
s 105	Banking requirements for interest, investment return, etc, on gaming machine profits	\$2,500

(2) Schedule 6 is amended by inserting the following item after the item relating to section 105:

s 105A	Management of bank accounts for gaming machine profits	\$2,500
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(3) The item relating to section 267 in Schedule 6 is amended by omitting “267” from the first column and substituting “267(2)”.

(4) The item relating to section 268 in Schedule 6 is amended by omitting “268” from the first column and substituting “268(1)”.

**128 Schedule 7 repealed**  
Schedule 7 is repealed.

**129 Consequential amendments to Gaming Duties Act 1971**

(1) This section amends the Gaming Duties Act 1971.

(2) Paragraph (a) of the definition of **gaming machine operator** in section 12B is amended by inserting “corporate” before “society”.

(3) Section 12B is amended by repealing the definition of **society**.

(4) Section 12B is amended by inserting the following definition in its appropriate alphabetical order:

“**corporate society** has the same meaning as in section 4(1) of the Gambling Act 2003”.

- (5) Paragraph (b) of the definition of **gaming wins** in section 12M is amended by omitting “authorised games” and substituting “casino gambling”.

**130 Consequential amendment to Gambling (Class 4 Net Proceeds) Regulations 2004**

- (1) This section amends the Gambling (Class 4 Net Proceeds) Regulations 2004.
- (2) Regulation 3(1) is amended by repealing the definition of **gross proceeds** and substituting the following definition:  
“**gross proceeds**, in relation to gambling, means the turnover of the gambling, less prizes, plus interest or other investment return on that turnover, plus any gain above the book value from the sale or disposal of gambling assets”.
- (3) The heading to Part 2 is amended by omitting “**conducts class 4 gambling mainly to distribute**” and substituting “**mainly or wholly distribute**”.
- (4) Regulation 9(1) is amended by omitting “conducts class 4 gambling mainly to distribute” and substituting “mainly or wholly distributes”.

**131 Consequential amendment to Gambling (Harm Prevention and Minimisation) Regulations 2004**

- (1) This section amends the Gambling (Harm Prevention and Minimisation) Regulations 2004.
- (2) Regulation 12(2)(c) is amended by omitting “risks and consequences” and substituting “dangers”.

*Transitional provisions*

**132 Notices under section 116(1)(b) to have prospective effect only**

A notice under section 116(1)(b) of the principal Act, as enacted by section 71 of this Act, does not apply in respect of any financial year of a corporate society that commenced before the commencement of this Act.

**133 New definition of net proceeds to have prospective effect only**

The net proceeds of a corporate society in any financial year that commenced before the commencement of this Act must be determined as if section 5(10) had not been enacted.

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**Legislative history**

6 August 2007	Introduction (Bill 131–1)
22 August 2007	First reading and referral to Government Administration Committee
23 May 2008	Reported from Government Administration Committee (Bill 131–2)
12 May 2009	Second reading
11 February 2015	Committee of the whole House (Bill 131–3)
24 February 2015	Third reading
2 March 2015	Royal assent

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This Act is administered by the Department of Internal Affairs.

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