

Gambling (Gambling Harm Reduction) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Electronic gambling machines (**pokies**) venues tend to be overly represented in lower income communities and town centres. Māori and Pasifika populations are effectively being disproportionately targeted and often severely harmed by them. The harm generated by pokies in terms of poverty, relationship break-up, depression, domestic violence, crime, neglected children, and the greatest losses by gamblers from pokie machines tend also to be drawn disproportionately from Māori, Pasifika, and lower income communities and families.

This Bill seeks to overcome these inequities of harm in the location and excessive numbers of pokies by enabling local authorities, in consultation with their communities, to reduce the number of, or even eliminate, pokies from those suburbs and towns where they are particularly concentrated or doing particular harm. It also changes the responsibility for distributing pokie funds to provide an informed and democratically accountable distribution method, and to end the inefficiencies, lack of transparency, risks of unethical behaviour, and failure to appreciate and respond to the greatest needs of particular geographical and ethnic communities in the distribution of the “community benefit” funds from pokies. It also proposes to give gamblers more ability to limit and control their own gambling behaviour

through player tracking and pre-commit cards. The Bill proposes to do so in 5 ways.

First, this Bill responds to the public sentiment and evidence that there are already too many pokies and venues in some locations and districts by adding public sentiment and evidence of harm to the major criteria to be applied in developing a territorial authority's gambling venue policy. It empowers local authorities, after consulting the community and affected operators, to eliminate or reduce the number of pokie machines and venues in particular suburbs or towns where public sentiment or evidence of harm justifies this. There is a specific new power to phase out venues that were in operation at the time the Gambling Act 2003 (the **principal Act**) came into force or have since commenced operation, while permitting operators who have not otherwise breached any licence conditions, the opportunity to phase out their pokies over a 1 year period. There is an explicit new power that this is an option to be decided on through the triennial reviews of that local authority's Gambling Venue Policy which would also be applied by all licences being for 3 year renewable periods only.

Second, it cuts out racing and racing-stake money as an authorised "charitable" purpose that is inconsistent with the community benefit tenor of the rest of the principal Act. Special consideration to this industry alone should not continue when community and iwi organisations are desperately short of funding.

Third, it requires the distribution of proceeds to be carried out primarily for the benefit of community, sporting, and social-service organisations operating within and for the benefit of the geographic community in which the venue is located. It specifically requires all pokie machine trusts, corporate societies and other distributors of the proceeds of gambling machines to return at least 80% of these funds generated by gamblers' losses on local pokie machines back into the charitable organisations that are meeting priority needs in the same local authority area as the venue and within the same local authority ward, local board subdivision, or community board area where such subdivisions exist. Currently pokie machine trusts and corporate societies are obliged to make grants for authorised purposes as defined in the principal Act from the net proceeds from their gambling machines. However only a small proportion of the pokie gamblers' losses are distributed in grants for community benefit back into the

same communities that generated them. This is because the majority of the gamblers' losses go to pay machine site rentals, machine maintenance, trustee fees for pokie trust members, and other administrative costs. Gambling losses are occasionally siphoned off into corrupt purposes and other rorts; go into paying taxes; and into grants made to organisations based in other local authorities altogether, sometimes even in the other Island, or to national bodies.

Fourth, this Bill also phases out the "pokie trusts" or corporate societies as the distributors of community benefit money from pokie machines, and within a year's time passes over responsibility for these distributions to special committees of local authorities with a majority of representation from community organisations, modelled on the Creative New Zealand creative communities fund committees and the former Hillary Commission local committees. The creative communities fund committees in particular already make full use of the provisions of clause 31(3) of Schedule 7 of the Local Government Act 2002 which permit councils to appoint members to council committees and subcommittees who are not members of the council. Every local authority in New Zealand is granted money from Creative New Zealand on a per head of population basis and distributes it through a council committee which has one or more councillors on it but a majority of whose members are drawn from knowledgeable people from arts and cultural groups in that district. This Bill would set up a parallel system to grant money to community, social-service, iwi, and sporting groups in their district on a fair, informed, transparent, and accountable basis.

Fifth, gamblers who are having problems with their behaviour when using pokie machines frequently have their problems exacerbated by losing track of the amount of their losses or of the passage of time. Gamblers could more often be able to manage their gambling if pokie machine venue operators were obliged to keep track of each gambler's overall losses and time spent gambling through using common technological devices like player tracking systems. If, in addition, gamblers were equipped with pre-commit cards in which the gambler pre-set, away from the gambling venue, limits on the amount of losses and time spent gambling on pokie machines then they could restore control over their own behaviour and greatly reduce the problems they could face from pokie gambling. The Bill proposes making such player tracking devices and pre-commit cards a required condi-

tion of a pokie machine venue operator's licence as issued by the Secretary of Internal Affairs.

Clause by clause analysis

Clause 1 states the Bill's Title.

Clause 2 is the commencement provision. It provides that the Bill will come into force on 1 July 2011. Provisions phasing out the role of the existing pokie machine corporate societies and replacing them with local committees will not come fully into force until a year later under the terms of *clause 10*.

Clause 3 states that the Bill amends the Gambling Act 2003.

Clause 4 states the Bill's purpose.

Clause 5 amends section 4(1) to restrict the definition of "authorised purpose" in the Interpretation section to exclude promoting, controlling, and conducting race meetings under the Racing Act 2003, including the payment of stakes.

Clause 6 amends section 53 to—

- require the distribution of funds derived from pokie machine gambling to be done in such a way that the outcome is that at least 80% of these proceeds are distributed for charitable purposes that are located in and benefit the same territorial authority district. Where a local authority is divided for electoral purposes into wards or contains local boards or community boards this 80% local distribution requirement is applied to that smaller electoral subdivision; and
- enable specific conditions requiring player tracking devices, pre-commit cards and/or similar devices designed to give gamblers more control over their gambling and therefore help achieve the purpose of minimising gambling-related harm in respect of class 4 gambling venues.

Clause 7 amends section 98 to provide for—

- the expiry of all class 4 venue licences that are subject to a policy under section 101(3)(c) prohibiting or reducing the number of class 4 venues, 1 year after the policy enters into force; and
- all replacement class 4 venue licences to have a maximum life of 3 years.

Clause 8 amends section 101 by adding—

- “evidence of harm from gambling” and “public sentiment about the extent of Opportunities for Gambling” as matters that a territorial authority is obliged to have regard to in reviewing and adopting its gambling venue policy; and
- a new power to territorial authorities in the course of the reviews of their class 4 gambling venue policy, namely, if they so determine, to prohibit or reduce the numbers of existing venues, including those that were in operation when the Act came into force.

Clause 9 amends section 106 by adding a *new subsection (1A)* requiring pokie machine trusts and corporate societies to distribute at least 80% of their distributable funds for societies or purposes located in the same territorial authority district, or the smallest of any local authority ward, local board subdivision, or community board area where they exist, as that in which the originating venue is located, and by amending subsection (2) to apply appropriate penalties for failure to comply.

Clause 10 inserts *new sections 110A and 110B*. *Section 110A* phases out the existing pokie trusts and corporate societies from having a role in conducting class 4 gambling or in distributing net gambling proceeds. They must cease distributing proceeds by 30 June 2012. *Section 110B* requires the existing pokie trusts and corporate societies to hand over their roles in conducting gambling and distributing its proceeds to committees of the territorial authority where a venue is located. The territorial local authority is obliged to consult with its community and community organisations about the membership of this committee and to include a majority of members who are not elected members of councils, local boards, or community boards.

Te Ururoa Flavell

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Gambling (Gambling Harm Reduction) Amendment Act **2010**.

- 2 Commencement**
This Act comes into force on 1 July 2011.
- 3 Principal Act amended**
This Act amends the Gambling Act 2003.
- 4 Purpose** 5
The purpose of this Act is to provide additional measures to implement the following purposes of the Gambling Act 2003:
- (a) to prevent and minimise the harm caused by gambling, including problem gambling (section 3(b));
 - (b) to ensure that money from gambling benefits the community (section 3(g)); 10
 - (c) to facilitate community involvement in decisions about the provision of gambling (section 3(h)).
- 5 Interpretation**
Section 4(1)(b) is amended by omitting “paragraph (a)(i) to (iii)” and substituting “paragraph (a)(i) and (ii)”. 15
- 6 Content and conditions of class 4 operator’s licence**
- (1) Section 53(1) is amended by inserting the following paragraph after paragraph (c):
- “(ca) a condition that at least 80% of all funds derived from gambling under the licence must be distributed for purposes that are located in the same territorial authority district or, where such electoral subdivisions exist, in the smallest of the local council ward, local board subdivision, or community board area; and”. 20
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- (2) Section 53(2) is amended by inserting the following paragraph after paragraph (f):
- “(fa) conditions requiring the use of player tracking devices, pre-commit cards or other devices designed to permit responsible gambling and— 30
- “(i) maximise player knowledge about, and control over, their gambling; or
 - “(ii) minimise gambling related harm originating at the venue.”.

7 When territorial authority consent is required

(1) Section 98 is amended by omitting paragraph (c) and substituting the following paragraph:

“(c) if a corporate society applies for a class 4 venue licence and— 5

“(i) a class 4 venue licence has not been held by any society for the venue within the last 6 months; or

“(ii) the corporate society holds or has held a class 4 venue licence to which **subsection (2)** applies.”

(2) Section 98 is amended by adding the following subsections: 10

“(2) If a territorial authority adopts a class 4 gambling venue policy under section 101(3)(c) that prohibits or reduces the number of venues in a district or area, and applies the prohibition or reduction in numbers to venues operating before this Act came into force, the licences for those class 4 venues expire 1 year 15 after the date the policy enters into force.

“(3) A consent for a class 4 gambling venue that is subject to a policy adopted under section 101(3)(c) may be issued for a period not exceeding 3 years.”

8 Territorial authority must adopt class 4 venue policy 20

(1) Section 101 is amended by omitting subsection (2) and substituting the following subsection:

“(2) In adopting a policy, the territorial authority must, in respect of the territorial authority district, have regard to—

“(a) the social impact of gambling; and 25

“(b) evidence of harm from gambling; and

“(c) public sentiment about the extent and location of gambling venues.”

(2) Section 101(3) is amended by adding the following paragraph:

“(c) may specify that class 4 venues are prohibited or reduced in numbers in all or specified parts of the district and that any prohibition or reduction shall apply to existing venues, including venues that operated on the date this Act came into force.” 30

9 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:

“(1A) A corporate society must apply at least 80% of such net proceeds to societies or for purposes located in the same territorial authority district or, where such electoral subdivisions exist, to the smallest of the local council ward, local board subdivision, or community board area, as that in which the class 4 venue from which the proceeds originated is located.” 5

(2) Section 106(2) is amended by omitting “subsections (1)” and substituting “subsections (1) and **(1A)**”. 10

10 New sections 110A and 110B

The following sections are inserted after section 110:

“110A Corporate societies to cease to distribute proceeds from class 4 gambling

Any corporate society whose principal purpose or activity is to distribute proceeds from class 4 gambling must cease to distribute proceeds from class 4 gambling and must have distributed all its proceeds from class 4 gambling by 30 June 2012. 15 20

“110B Corporate societies to be succeeded by council and local board committees

“(1) A territorial authority is responsible for the distribution of proceeds from class 4 gambling venues located in its district from 1 July 2012. 25

“(2) A territorial authority must consult the community, iwi, and community organisations about suitable members of the council or local board committee which shall be responsible for the distribution of such proceeds for community purposes.

“(3) The council committee responsible for the distribution of such proceeds must have a majority of its members who— 30
“(a) live or are active in the local district; and
“(b) are not members of the local council, local board, or community board.

“(4) The Auckland Council must ensure that at least 80% of the proceeds from class 4 gambling are distributed by committees 35

of the local boards from whose area the class 4 gambling proceeds originated, and such local board committees must have a majority of members who—

- “(a) live or are active in the local board area; and
 - “(b) are not members of the Auckland Council or local board.”
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