

# **Criminal Proceeds (Recovery) Act 2009 (Application to Casinos) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to ensure that the proceeds of crime spent in, and laundered through, casinos are returned to those from whom they have been stolen or acquired.

The Criminal Proceeds (Recovery) Act 2009 (the **principal Act**) provides a civil forfeiture regime under which people are made to return the proceeds of crime they have directly or indirectly benefited from. The Green Party's amendment to the principal Act would specifically apply that civil forfeiture regime to casinos in acknowledgment of the special risks casinos pose in attracting, and benefiting from, criminal activity.

This Bill achieves that objective by amending the definition in the principal Act of the term "unlawfully benefited from significant criminal activity" to specifically refer to casinos that knowingly, having regard to best international practice in detecting problem gambling and criminal activity, derive a benefit from significant criminal activity.

The risks casinos pose in attracting and benefiting from significant criminal activity is acknowledged in other legislation including the

Financial Transactions Reporting Act 1996 and the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, which describe casinos as specific typologies of risk for crime.

More provisions of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 come into force in 2013 and those provisions place enhanced obligations on casinos to monitor and report suspicious activity.

However, there is no specific legal mechanism that forces casinos to pay back the proceeds of crime when a casino has been proven to have benefited from the crime because it did not take reasonable care to detect it.

Regular Police prosecutions involving fraud and crime committed specifically to fund gambling at New Zealand casinos provide empirical proof that casinos benefit from crime.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. It provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Bill amends the Criminal Proceeds (Recovery) Act 2009 (the **principal Act**).

*Clause 4* amends section 5, which is the interpretation section. The amendment inserts a definition of “casino” to mean the holder of a casino operator’s licence under the Gambling Act 2003.

*Clause 5* amends section 7, which defines “unlawfully benefited from significant criminal activity”. The amendment adds a subclause to the definition to clarify that it extends to a casino and that a casino is, for the purposes of the definition, taken to have knowingly derived a benefit from significant criminal activity if it knew or should have known, having regard to best international practice in the detection of problem gambling and criminal activity, that the benefit is derived or likely to be derived from the proceeds of significant criminal activity.

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*Metiria Turei*

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

- 1 Title**  
This Act is the Criminal Proceeds (Recovery) Act 2009 (Application to Casinos) Amendment Act **2012**.
  
- 2 Commencement** 5  
This Act comes into force on the day after the date on which it receives the Royal assent.
  
- 3 Principal Act** 10  
This Act amends the Criminal Proceeds (Recovery) Act 2009 (the **principal Act**).

**4 Section 5 amended (Interpretation)**

In section 5(1), insert in its appropriate alphabetical order:

“**casino** means the holder of a casino operator’s licence under the Gambling Act 2003”.

**5 Section 7 amended (Meaning of unlawfully benefited from significant criminal activity) 5**

In section 7, insert as subsection (2):

“(2) For the purposes of **subsection (1)**, a person who is a casino is taken to have knowingly derived a benefit from significant criminal activity if the person knew or should have known, 10  
having regard to best international practice in the detection of problem gambling and criminal activity, that the benefit is derived or likely to be derived from the proceeds of significant criminal activity.”

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