



## Gambling (Venue Payments) Regulations 2016

Jerry Mateparae, Governor-General

### Order in Council

At Wellington this 22nd day of August 2016

Present:

His Excellency the Governor-General in Council

These regulations are made under section 371 of the Gambling Act 2003 on the advice and with the consent of the Executive Council.

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## Regulations

### 1 Title

These regulations are the Gambling (Venue Payments) Regulations 2016.

### 2 Commencement

These regulations come into force at 2 am on 3 October 2016.

### 3 Interpretation

In these regulations, unless the context otherwise requires,—

**Act** means the Gambling Act 2003

**financial year** means a financial year of a corporate society

**turnover** includes goods and services tax, unless otherwise specified.

### 4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

### 5 Payments that corporate society may make to venue operator

- (1) A corporate society may make payments to a venue operator for any matters only in accordance with the Act and these regulations.
- (2) A corporate society must not make any other payments to a venue operator.
- (3) Matters relating to payments made by a corporate society to a venue operator (including whether payments are made, and the amount, time, and frequency of payments) may be agreed between the corporate society and the venue operator provided that the Act and these regulations are complied with.
- (4) Subclause (2) does not prohibit a corporate society from making a payment to a venue operator if the circumstances in subclause (5) apply.
- (5) The circumstances are that the payment is for a matter that is not a cost associated with a class 4 venue and the venue operator is—
  - (a) a licensing trust established under section 300 of the Sale and Supply of Alcohol Act 2012; or
  - (b) a community trust, as defined in section 5 of the Sale and Supply of Alcohol Act 2012.

### 6 Weekly limit on payments by corporate society to venue operator

- (1) A corporate society must not, in respect of a week at a particular venue, pay to a venue operator payments that in total exceed 1.28% of the week's turnover.
- (2) A corporate society must also comply with the limits in regulation 7 or 8.
- (3) In this regulation, **week's turnover** means the turnover of class 4 gambling for the venue for a week—

- (a) as reported by the electronic monitoring system; or
  - (b) if a report from the electronic monitoring system is unreliable because of a fault, as calculated by another method that is reliable.
- (4) If a week's turnover is calculated in accordance with subclause (3)(b), the corporate society must—
- (a) record the method of calculation used and the sum calculated; and
  - (b) keep the records available for inspection by the Secretary if required.

**7 Limit on payments by corporate society to venue operator in a financial year**

A corporate society must not, in respect of a particular venue, pay a venue operator payments that in total exceed 16% of the turnover of class 4 gambling (exclusive of prizes and goods and services tax) at the venue for a financial year.

**8 Calculation of limit on payments by corporate society to venue operator for periods of less than financial year**

- (1) This regulation applies instead of regulation 7 if a corporate society receives turnover from class 4 gambling (exclusive of prizes and goods and services tax) for a particular venue for a period of less than a financial year (a **shorter period** in this regulation).
- (2) A corporate society must not, in respect of a shorter period, pay to a venue operator payments that in total exceed 16% of the turnover of class 4 gambling (exclusive of prizes and goods and services tax) at the venue for the shorter period.

**9 No effect on requirement to bank gaming machine profits**

- (1) These regulations do not affect the requirement that a venue manager must bank all gaming machine profits in accordance with the Act and regulations.
- (2) Any amount in respect of a payment allowed under these regulations must not be withheld from the gaming machine profits banked.

## **Schedule 1**

### **Transitional, savings, and related provisions**

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#### **Part 1**

#### **Provisions relating to these regulations as made**

##### **1 Venue payments incurred before commencement of these regulations**

A corporate society may reimburse costs incurred by a venue operator (within the limits set under section 116 of the Act) before the commencement of these regulations as if these regulations were not in force.

Michael Webster,  
Clerk of the Executive Council.

#### **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force at 2 am on 3 October 2016, replace the current system limiting the costs that corporate societies may reimburse to the operators of commercial class 4 gambling venues. The system is replaced with a commission-based scheme.

The new scheme is as follows:

- a corporate society must not, in respect of a week, pay to a venue operator payments that in total exceed 1.28% of the week's turnover from a particular venue; and
- in addition to the weekly limit, a corporate society must not make payments to a venue operator that in total exceed 16% of the turnover (exclusive of prizes and goods and services tax) from a particular venue in the financial year; and
- if the turnover (exclusive of prizes and goods and services tax) from a particular venue is for less than a financial year, the calculation of payments must be made in respect of that shorter period.

The weekly limit is calculated on turnover from the commercial class 4 venue. Turnover for the purposes of the weekly limit calculation includes prizes and goods and services tax.

The limit for a financial year (or part of a financial year) is calculated on turnover from the commercial class 4 venue exclusive of prizes and goods and services tax. Turnover exclusive of prizes is equivalent to gaming machine profits in section 104 of the Act.

Even though the limits on payments must be calculated in accordance with these regulations on a weekly and yearly basis, other matters relating to making any payments, including their timing and frequency, are to be agreed between the parties.

These regulations do not affect the requirement that a venue manager must bank all gaming machine profits in accordance with the Act and regulations. In other words, venue operators must not deduct a commission percentage before they bank gaming machine profits.

The limits in these regulations are an approximation of current costs and they are subject to change from time to time.

The Limits and Exclusions on Class 4 Venue Costs Notice 17 July 2008 (*Gazette*, 2008, p 3027) will be revoked by the Secretary for Internal Affairs by notice in the *Gazette* at the same time as these regulations come into force.

### Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 22 April 2016 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- [https://www.dia.govt.nz/diawebsite.nsf/Files/C4-venue-payments/\\$file/Final-RIS-Class-4-Venue-Payments-Regulations.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/C4-venue-payments/$file/Final-RIS-Class-4-Venue-Payments-Regulations.pdf)
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 25 August 2016.

These regulations are administered by the Department of Internal Affairs.