

Gambling Amendment Bill (No 3)

Government Bill

Explanatory note

General policy statement

The Gambling Act 2003 (the Act) creates a regulatory framework for gambling in New Zealand (excluding racing, which is regulated under the Racing Act 2003). The Act divides gambling into classes according to risk, plus provides for casino and lotteries gambling. Class 4 gambling refers to gambling on non-casino electronic gaming machines (“pokies”) in bars and clubs. These venues are entitled to be paid by the corporate societies (societies), which are licensed gambling operators, for costs associated with hosting the gaming machines.

Key purposes of the Act include ensuring that money from gambling benefits the community, and limiting opportunities for crime and dishonesty associated with gambling.

Purpose and overview of the Bill

The Gambling Amendment Bill (No 3) makes a small number of important improvements to the Act, focusing on Class 4 gambling, to help fulfil the purposes of the Act. The Bill’s policy objectives are to—

- increase transparency of grant-making from the proceeds of Class 4 gambling;

- reduce potential conflicts of interest situations between Class 4 gambling operators (societies), venues and grant recipients;
- improve transparency surrounding management companies that provide societies with services (for example, contract negotiation with venues, administrative and financial management or grant application processing);
- simplify compliance and reduce costs for societies and venue owners in some areas; and
- ensure the efficiency of the appeals process is not undermined.

Transparency of grant-making by societies

To make more comprehensive information on grants available to communities, and allow financial comparisons between societies to be made, the Bill's amendments introduce new regulation-making powers prescribing—

- the publication requirements for societies' grants, specifically the manner, location and forms for publication under section 110 of the Act, and any matters to be disclosed, including that disclosure may be in electronic form; and
- how societies' financial information and key indicators of operational efficiency should be published.

Societies will also need to report on whether grant decision-makers had any direct or indirect interest in a successful grant applicant.

Reducing conflicts of interest

The Act currently has two conflict of interest provisions with associated summary offences. The conflict of interest provisions are important because they help to ensure that gambling is undertaken to benefit the community rather than enable personal gain.

The Bill's amendments strengthen the conflict of interest provisions in the Act by—

- changing the definition of a venue "key person" so that the indirect interests and relationships of venue operators to grant recipients are captured;
- simplifying the test for determining if a person has an interest in a venue such that he or she is in essence a venue "key person";

- prohibiting payments gifts or benefits between societies and venues even where there is no “condition attached” to the payment, gift or benefit; and
- prohibiting a “key person” in a society or a venue from receiving any benefits that a reasonable person would believe could influence the grant-making process.

*Improving transparency of management
company operations*

Some societies use management companies in their gambling operations, with these companies providing societies with services such as contract negotiation with venues, administrative and financial management or grant application processing. The Bill brings these management companies within the gambling regulatory framework by—

- providing the Secretary for Internal Affairs with a new power to audit these companies; and
- widening the “key person” definition so that people running management companies are considered when an application is made for a Class 4 operator’s licence (and the expanded conflict of interest regime will also apply).

*Simplifying compliance with the venue payments
system*

There is currently a very complex system for the payments that are made by societies to Class 4 venues. The Bill introduces—

- a new regulation-making power for regulations to be made to specify a more simplified system for these payments;
- amendments that would allow a change to the current system so the new regulations can operate as intended; and
- a removal of the prohibition on commission-based payments (which is one option that is being considered for the new regulations).

Reducing costs associated with licensing

The Bill amends the Act so that the Secretary for Internal Affairs can issue licences for gambling operators for up to three years (rather

than the current 18 months). Requiring less frequent renewals could be used as a reward for highly-compliant operators and would help reduce their costs.

Simplifying compliance with publication requirements

The Bill removes the requirement that societies publish grant information in at least one newspaper, which can be costly for societies. Other amendments enable the requirements for the publishing of grant information to be specified in regulations and subsequent regulations could be more specifically tailored to meet the needs of stakeholders (for example, where information online is sufficient).

Ensuring the Act's appeals process is efficient

Societies have a right of appeal to the Gambling Commission against the Department's decisions to suspend, cancel, not issue or not renew class 3 and 4 licences. The Bill streamlines the Act's appeals framework so that an affected party may only seek judicial review after that party has exercised their right of appeal to the Gambling Commission and the appeal has been finally determined.

Departmental disclosure statement

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=216&>.

Regulatory impact statement

The Department of Internal Affairs produced regulatory impact statements on 3 April and 30 October 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of these regulatory impact statements can be found at—

- <http://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 states that the Bill's title.

Clause 2 is the commencement clause. The provision of the Bill are to come into force on the day after the Bill receives the Royal assent. However, certain provisions that concern reporting and disclosure requirements, the costs of class 4 gambling, and the compensation of venue operators are deferred by 1 year after Royal assent or any earlier Order in Council to enable the required regulations to be made.

Clause 3 states that the Bill amends the Gambling Act 2003 (the **principal Act**).

Clause 4 amends section 4 of the principal Act (which defines terms used in it) so as to extend the definition of **key person**.

Both in relation to a class 4 operator's licence and in relation to a class 4 venue licence, the following will now be a key person:

- a person who exercises significant influence in the management of a corporate society that is an applicant for, or a holder of, a class 4 operator's licence:

In relation to a class 4 operator's licence, the following will now be a key person:

- a person who exercises significant influence in the management of a corporate society that is an applicant for or holder of the licence:
- a management services provider for a corporate society that is an applicant for or a holder of the licence:
- a person who is or performs the function of the chief executive of a management services provider for a corporate society that is an applicant for or holder of the licence:
- a person who exercises significant influence in the management of a management services provider for a corporate society that is an applicant for or holder of the licence.

And in relation to a class 4 venue licence, the following will now be a key person:

- a person (other than a member of a licensing trust, or trustee of a community trust, under the Sale and Supply of Alcohol Act 2012) who exercises significant influence in the management of a corporate society that is an applicant for or holder of the licence:
- a person who has the direct or indirect ability to exert a significant degree of influence over the management or operations of the venue operator or who may reasonably be perceived to have such an ability:
- a person who services gambling equipment at a class 4 venue.

In addition, a definition of **management services provider** is inserted. A management services provider will be a person who provides to a corporate society ongoing services that—

- directly relate to the conduct of class 4 gambling; and
- are not solely confined to servicing gambling equipment at a class 4 venue; and
- would otherwise be performed by the society itself.

Clause 5 inserts into the principal Act a *new section 5A*, which sets out a definition of **net proceeds** that is more detailed than that at present in section 4(1).

Clause 6 replaces section 30 of the principal Act (which defines **class 4 gambling**) with section stating a new definition. Class 4 gambling is now to be either—

- gambling that is not gambling of another class, utilises or involves a gaming machine, and satisfies the following criteria:
 - net proceeds are applied to or distributed for authorised purposes:
 - no commission, other than a commission that complies with regulations under section 371(1)(db) of the principal Act, is paid to, or received by, a person for conducting the gambling:
 - the gambling satisfies relevant game rules; or
- gambling categorised by the Secretary as class 4 gambling.

Clause 7 amends section 53 of the principal Act so that a class 4 operator's licence can be granted for a term of up to 3 years.

Clause 8 amends section 69 of the principal Act (which prescribes the form and content of a class 4 venue agreement) so as to provide that the itemised list of costs associated with the operation of class 4 gambling at the venue concerned must in future be a statement (complying with regulations under *new section 371(1)(db)*) of payments to be made by the holder of the licence to the venue operator.

Clause 9 amends section 70 of the principal Act so that a class 4 venue licence can be granted for a term of up to 3 years.

Clause 10 amends section 108 of the principal Act (which prescribes the content of annual reports) so as to provide that the financial statements included in an annual report must comply with regulations made under *new section 371(1)(da)*.

Clause 11 amends section 110 of the principal Act (which states publication requirements for corporate societies) so as to require corporate societies to publish statements (at least annually or at any shorter intervals specified by regulations) a statement disclosing—

- details of all applications received during the reporting period:
- for each application determined during the period—
 - whether it has been accepted in full or declined in full:
 - whether it has been accepted in part and declined in part:
 - if it has been declined in full or in part, the reasons for the decision:
- every amount of net proceeds from class 4 gambling distributed in the reporting period and the applicant to whom that amount relates:
- any direct or indirect interest that any member of the society's net proceeds committee has in any applicant who is a recipient of a grant made by the committee:
- the results of the society's annual review of the criteria, methods, systems, and policies it uses for considering the distribution of net proceeds from class 4 gambling:
- any other matters prescribed by regulations.

In addition, the section is amended to—

- state that a member of a corporate society's net proceeds committee has an interest in a recipient of a grant if—
 - the member may derive a financial benefit from the grant or may have a financial interest in the recipient; or

- the member is a relative of the recipient; or
- the member is an officer or member of a recipient that is an organisation, club, society, or association, or is a relative of an officer or member of the recipient; or
- the member is, or has been, the recipient's lawyer or is under an obligation to the recipient in some other professional capacity; or
- the member is, or has been, employed by the recipient, or indebted to the recipient, or involved in business or financial dealings with the recipient; or
- the member is otherwise connected or involved with the recipient in a way that can reasonably be perceived as having influenced the decision to make the grant to the recipient; and
- define **applicant**, **net proceeds committee**, **publish**, **regulations**, **reporting period**, and **relative** for the purposes of the section; and
- require corporate societies to provide an electronic version of every statement.

Clause 12 amends section 110 of the principal Act (which empowers the making of regulations for certain purposes of the principal Act) so as to empower the making of additional kinds of regulations contemplated by amendments made by the Bill.

Clause 13 amends section 115 of the principal Act (which prohibits the payment of commission for conducting class 4 gambling) so as to allow commission to be paid in accordance with regulations.

Clause 14 replaces section 116 of the principal Act (which empowers the Secretary to limit or exclude costs of corporate society) with a redrafted section that allows greater flexibility in the limitations or exclusions imposed, and makes instruments imposing limitations or exclusions disallowable instruments, but not legislative instruments.

Clause 15 amends section 117 of the principal Act (which empowers the Secretary to investigate and audit licensees, grant-recipients, and businesses at class 4 venues) so as to allow management service providers to be investigated and audited as well.

Clause 16 amends section 118 of the principal Act (which prohibits certain persons from seeking, receiving, or offering benefits with

conditions attached) so as to extend the range and detail of the particular behaviour that the section prohibits.

Clause 17 inserts into the principal Act a *new section 235A* which limits the ability of persons who have a right to appeal to the Gambling Commission against certain decisions by the Secretary to seek judicial review of those decisions without having first exhausted their right to appeal to the Gambling Commission.

Clause 18 amends section 371 of the principal Act (which is a general regulation-making power) so as to empower the making of additional kinds of regulations contemplated by amendments made by the Bill.

Clause 19 provides that certain application, savings, and transitional provisions set out in *new Schedule 1AA* apply.

Clause 20 inserts *new Schedule 1AA* into the principal Act.

Hon Peter Dunne

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Gambling Amendment Act **(No 3) 2014**.

2 Commencement

- (1) Except as provided in **subsections (2) and (3)**, this Act comes into force on the day after the date on which it receives the Royal assent. 5
- (2) **Sections 6, 8, 10, 11, 13, and 14** come into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different provisions. 10
- (3) If any provision has not earlier been brought into force under **subsection (2)**, it comes into force 1 year after the date on which this Act receives the Royal assent.

3 Principal Act

This Act amends the Gambling Act 2003 (the **principal Act**).

Part 1
Class 4 gambling

4 Section 4 amended (Interpretation)

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- (1) In section 4(1), definition of **key person**, replace paragraph (a)(iii) with:

“(iii) exercises significant influence in the management of a corporate society that is an applicant for, or a holder of, a class 4 operator’s licence: 10

“(iv) is a management services provider for a corporate society that is an applicant for, or a holder of, a class 4 operator’s licence:

“(v) is the chief executive (or performs that function) of a management services provider for a corporate society that is an applicant for, or holder of, a class 4 operator’s licence: 15

“(vi) exercises significant influence in the management of a management services provider for a corporate society that is an applicant for, or holder of, a class 4 operator’s licence; and” 20

- (2) In section 4(1), definition of **key person**, replace paragraphs (b)(iva) and (v) with:

“(iva) a person who has a significant interest in the management, ownership, or operation of a venue operator, except for the following persons holding office, elected, or appointed under the Sale and Supply of Alcohol Act 2012: 25

“(A) a member of a licensing trust elected in accordance with sections 308 to 314 of that Act or appointed under section 315 of that Act; or 30

“(B) a trustee of a community trust holding office under section 369 of that Act or elected in accordance with sections 370 to 373 of that Act or appointed under section 374 of that Act: 35

- “(ivb) a person who has the ability, directly or indirectly, to exert a significant degree of influence over the management or operations of a venue operator or who may reasonably be perceived to have that ability: 5
- “(v) a person who services gambling equipment at a class 4 venue; and”.
- (3) In section 4(1), insert in its appropriate alphabetical order:
 “**management services provider**, in relation to a corporate society that is an applicant for, or a holder of, a class 4 operator’s licence, means a person who, under a contract or arrangement, provides to the corporate society ongoing services that— 10
- “(a) directly relate to the conduct of class 4 gambling; and
 “(b) are not solely confined to servicing gambling equipment at a class 4 venue; and 15
- “(c) would, in the absence of that contract or arrangement, be performed by the corporate society itself”.
- (4) Replace the definition of **net proceeds** in section 4(1) with:
 “**net proceeds** has the meaning given by **section 5A**”. 20
- 5 New section 5A inserted (Meaning of net proceeds)**
 After section 5, insert:
 “**5A Meaning of net proceeds**
 “(1) In this Act, **net proceeds**, in relation to any gambling, means— 25
- “(a) the sum of the amounts described in **subsection (2)**; less
 “(b) the sum of the amounts described in **subsection (3)**.
- “(2) The amounts referred to in **subsection (1)(a)** are— 30
- “(a) the turnover of the gambling concerned:
 “(b) any interest or other investment return on that turnover:
 “(c) any proceeds from the sale of fittings, chattels, and gambling equipment purchased from that turnover or investment return. 35
- “(3) The amounts referred to in **subsection (1)(b)** are—

- “(a) the actual, reasonable, and necessary costs (including prizes), levies, and taxes, incurred in conducting the gambling; and
- “(b) the costs incurred in complying with any of the following in relation to the gambling: 5
- “(i) this Act or any other relevant enactment:
- “(ii) an operator’s licence:
- “(iii) a venue licence:
- “(c) any payments made in compliance with **section 371(1)(db)**.” 10
- 6 Section 30 replaced (Meaning of class 4 gambling)**
Replace section 30 with—
- “30 Meaning of class 4 gambling**
In this Act, **class 4 gambling** is—
- “(a) gambling that is not gambling of another class and that utilises or involves a gaming machine and satisfies the following criteria: 15
- “(i) the net proceeds from the gambling are applied to or distributed for authorised purposes:
- “(ii) no commission, other than a commission 20
that complies with regulations under **section 371(1)(db)**, is paid to, or received by, a person for conducting the gambling:
- “(iii) the gambling satisfies relevant game rules; or
- “(b) gambling categorised by the Secretary as class 4 gambling.” 25
- 7 Section 53 amended (Content and conditions of class 4 operator’s licence)**
In section 53(1)(b) replace “not later than 18 months” with “a date, determined by the Secretary at the Secretary’s absolute discretion, that is not more than 3 years”. 30
- 8 Section 69 amended (Form and content of class 4 venue agreement)**
Replace section 69(1)(b) with:
- “(b) the payments to be made by the holder of the class 4 venue licence to the venue operator, which must be 35

payments that comply with regulations under **section 371(1)(db)** or, if no such regulations are in force, payments in respect of an itemised list of costs associated with the operation of class 4 gambling at the venue; and”.

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9 Section 70 amended (Content and conditions of class 4 venue licence)

In section 70(1)(b) replace “not later than 18 months” with “a date, determined by the Secretary at the absolute Secretary’s discretion, that is not more than 3 years”.

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10 Section 108 amended (Contents of annual report)

After section 108(1), insert:

“(1A) The financial statements included in the annual report must comply with regulations made under **section 371(1)(da)**.”

11 Section 110 amended (Publication requirements for corporate societies)

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(1) Replace section 110(4) with:

“(4) A corporate society must publish at least annually or at any shorter intervals specified by regulations, a statement that discloses the following matters:

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“(a) details of all applications received during the reporting period from applicants:

“(b) details disclosing for each application that has been determined during the reporting period—

“(i) whether it has been accepted in full or declined in full:

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“(ii) whether it has been accepted in part and declined in part:

“(iii) if it has been declined in full or in part, the reasons for that decision:

30

“(c) every amount of net proceeds from class 4 gambling distributed in the reporting period and the applicant to whom that amount relates:

“(d) any direct or indirect interest that any member of a corporate society’s net proceeds committee has in any applicant who is a recipient of a grant that—

35

- “(i) has been made by that committee; and
“(ii) is required to be disclosed under **paragraph (c)**:
“(e) the results of the corporate society’s annual review of the criteria, methods, systems, and policies it uses for considering the distribution of net proceeds from class 4 gambling: 5
“(f) any other matters prescribed by regulations.
“(4A) For the purposes of **subsection (4)(d)**, a member of a corporate society’s net proceeds committee has an **interest** in a recipient of a grant (a **recipient**) if — 10
“(a) the member may derive a financial benefit from the grant or may have a financial interest in the recipient; or
“(b) the member is a relative of the recipient; or
“(c) where the recipient is an organisation, club, society, or association, the member is— 15
“(i) an officer or member of the recipient; or
“(ii) is a relative of an officer or member of the recipient; or
“(d) the member is, or has been, the recipient’s lawyer or is under a professional obligation to the recipient in another professional capacity; or 20
“(e) the member is, or has been, employed by the recipient, or is, or has been, indebted to the recipient, or is, or has been, involved in business or financial dealings with the recipient; or 25
“(f) the member is otherwise connected or involved with the recipient in a way that can reasonably be perceived as having influenced the decision to make the grant to the recipient.
“(4B) A corporate society must, in accordance with the regulations, provide an electronic version of every statement published under **subsection (4)** to the Secretary.” 30
(2) Replace section 110(6) with:
“(6) In this section,—
“**applicant** means persons or groups who have applied to the corporate society for grants of net proceeds from class 4 gambling 35

“**net proceeds committee** means a committee established under the regulations to make decisions on the application or distribution of net proceeds to or for an authorised purpose specified in the licence

“**publish** means to publish in accordance with the regulations 5

“**regulations** means regulations made under section 114

“**reporting period**, in relation to a statement of any kind required to be published under **subsection (4)**, means the period prescribed by the regulations for a statement of that kind 10

“**relative**, in relation to a member of a corporate society’s net proceeds committee, means a person—

“(a) who is the member’s—

“(i) spouse, civil union partner, or de facto partner; or

“(ii) parent, step-parent, or grandparent; or 15

“(iii) child, stepchild, or grandchild; or

“(iv) sister, half-sister, stepsister, brother, half-brother, or stepbrother; or

“(v) aunt or uncle; or

“(vi) nephew or niece; or 20

“(vii) first cousin; or

“(b) whose relationship with the member’s spouse, civil union partner, or de facto partner is that of—

“(i) parent, step-parent, or grandparent; or

“(ii) child, stepchild, or grandchild; or 25

“(iii) sister, half-sister, stepsister, brother, half-brother, or stepbrother; or

“(iv) aunt or uncle; or

“(v) nephew or niece; or

“(vi) first cousin.” 30

12 Section 114 amended (Regulations regarding application or distribution of net proceeds from class 4 gambling)

Replace section 114(1)(e) and (f) with—

“(e) prescribing requirements for the publication of information about the application and distribution of net proceeds from class 4 gambling, which may, without limitation, include requirements that information of 35

that kind, or any class of information of that kind, be published—

“(i) in a stated manner, location, or form:

“(ii) in an electronic form as well as, or instead of, a non-electronic form: 5

“(f) prescribing any matter to be disclosed in a statement published under **section 110(4)**, and the form in which those matters must be disclosed in such a statement:

“(g) prescribing the form of the electronic version required to be provided under **section 110(4A)** and the manner in which, and the time within which, it must be provided: 10

“(h) specifying the reporting period to which a statement published under **section 110(4)** must relate, and different reporting periods may be specified for different cases: 15

“(i) specifying intervals that are shorter than 12 months at which a statement under **section 110** must be published, and different intervals may be specified for different cases: 20

“(j) prescribing any other matters concerning the management, application, or distribution of net proceeds.”

13 Section 115 amended (Payment of commission prohibited)

After section 115(1) insert:

“(1A) Subsection (1) does not apply to commissions paid to a venue operator if the payment complies with regulations made under **section 371(1)(db)**.” 25

14 Section 116 replaced (Secretary may limit or exclude costs of corporate society)

Replace section 116 with: 30

“116 Secretary may limit or exclude operating costs of corporate society

“(1) The Secretary may, by notice in the *Gazette*, set limits on, or exclude, the operating costs that may be incurred by a corporate society that conducts class 4 gambling. 35

“(2) A notice under **subsection (1)** may apply to specified licence holders or to classes of licence holder.

- “(3) A limit may be expressed in any way that the Secretary considers appropriate, for example,—
- “(a) as a specific amount:
 - “(b) as a percentage:
 - “(c) as an amount for each gaming machine. 5
- “(4) A contract or other arrangement or obligation entered into by a corporate society, whether before or after the enactment of this Act, that does not comply with limits set under **subsection (1)** is an illegal contract for the purposes of the Illegal Contracts Act 1970. 10
- “(5) A notice given under **subsection (1)** is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- “(6) In this section, **operating costs**— 15
- “(a) includes the following:
 - “(i) costs of operating the corporate society, including fees, salary, expenses, or any other payments to a key person, to a management services provider, or to another person involved in operating the corporate society: 20
 - “(ii) costs associated with repairing and maintaining gambling equipment; but
 - “(b) does not include any payment made to a venue operator.” 25
- 15 Section 117 amended (Secretary may investigate and audit licensees, grant recipients, and businesses at class 4 venues)**
- (1) In the heading to section 117, after “**grant recipients,**” insert “**management service provider,**”. 30
 - (2) After section 117(1)(b) insert:
 - “(ba) an investigation and audit of a management services provider.”.

16 Section 118 amended (Certain persons must not seek, receive, or offer benefits with conditions attached)

- (1) In the heading to section 118, delete “**with conditions attached**”.
- (2) Replace section 118(2) to (4) with: 5
- “(2) A key person in relation to a class 4 venue licence must not knowingly receive or seek money, a benefit, an advantage, a privilege, or gift from a holder of a class 4 operator’s licence or a key person in relation to a class 4 operator’s licence, whether the receipt is direct, indirect, formal, informal, or otherwise. 10
- “(3) A holder of, or key person in relation to, a class 4 operator’s licence, or person that sells, repairs, services or maintains gambling equipment must not knowingly offer money, a benefit, an advantage, a privilege, or a gift to 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. 15
- “(3A) A holder of, or key person in relation to, a class 4 operator’s licence, or person that sells, repairs, services or maintains gambling equipment must not knowingly offer money, a benefit, an advantage, a privilege, or a gift to a key person in relation to a class 4 venue licence, whether the receipt is direct, indirect, formal, informal, or otherwise. 20
- “(3B) A holder of a class 4 operator’s licence or a class 4 venue licence, or key person in relation to a class 4 operator’s licence or a class 4 venue licence, must not knowingly receive any money, a benefit, an advantage, a privilege, or a gift that could reasonably be perceived as influencing decisions taken, or to be taken, on applications for grants, whether the receipt is direct, indirect, formal, informal, or otherwise. 25 30
- “(4) **Subsection (2) or (3A)** does not prevent the holder of a class 4 operator’s licence paying a key person in relation to a class 4 venue costs associated with the class 4 venue if the payment—
- “(a) complies with **section 115** and regulations made under section 371; and 35
- “(b) is consistent with the relevant venue agreement; and
- “(c) is otherwise lawful.”

- (3) In section 118(6)(a), before “the condition is attached”, insert “where a condition is an element of an offence,”.

Part 2

Miscellaneous matters

- 17 **New section 235A inserted (No review until right of appeal exercised)** 5
 After section 235, insert:
“235A No review of Secretary’s decisions concerning class 3 or class 4 gambling until right of appeal exercised
 “(1) A person who has a right to appeal to the Gambling Commission against 1 or more of the decisions mentioned in **subsection (2)** is not entitled to apply for judicial review of the decision unless—
 “(a) that person exercises that right of appeal; and
 “(b) where that person exercises that right of appeal, the appeal is finally determined. 15
 “(2) The decisions referred to in **subsection (1)** are—
 “(a) a decision by the Secretary to refuse to grant a class 3 operator’s licence, class 4 operator’s licence, or class 4 venue licence: 20
 “(b) a decision by the Secretary to cancel or suspend a class 3 operator’s licence, class 4 operator’s licence, or class 4 venue licence:
 “(c) a decision by the Secretary to amend or revoke a condition of, or add a new condition to, a class 3 operator’s licence, class 4 operator’s licence, or class 4 venue licence: 25
 “(d) a decision by the Secretary to refuse to renew a class 3 operator’s licence, class 4 operator’s licence, or class 4 venue licence: 30
 “(e) a decision by the Secretary to refuse to amend a class 3 operator’s licence, a class 4 operator’s licence, or a class 4 venue licence.
 “(3) In this section **apply for judicial review** means—
 “(a) to make an application for review of that decision under Part 1 of the Judicature Amendment Act 1972; or 35

“(b) to institute proceedings seeking any writ or order of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction, in respect of that decision.”

18 Section 371 amended (Other regulations)

After section 371(1)(d), insert 5

“(da) prescribing requirements relating to the presentation of financial reports by holders of class 4 licences, and specifying matters that must be included in those reports, including, without limitation, key indicators of operational efficiency: 10

“(db) prescribing the payments that corporate societies may make to venue operators in connection with class 4 gambling at the venue and, for that purpose, providing for 1 or more of the following:

“(i) the matters for which venue operators may be paid: 15

“(ii) any limit on the payment for a matter of a particular kind:

“(iii) that, subject to any conditions that may be prescribed, the payment for 1 or more matters may be up to an amount that does not exceed a specified percentage of the turnover (exclusive of prizes and goods and services tax) of the class 4 gambling, for a stated period, at the venue: 20

“(dc) prescribing the manner in which payments prescribed under **paragraph (db)** are to be set out in class 4 venue agreements:” 25

19 New section 378 inserted

After section 377, insert:

“**378 Application, savings, and transitional provisions** 30

The application, savings, and transitional provisions set out in **Schedule 1AA** have effect for the purposes of this Act.”

20 New Schedule 1AA inserted

Before Schedule 1, insert the **Schedule 1AA** set out in the Schedule of this Act.

	Schedule	s 19
	New Schedule 1AA inserted in principal Act	
	Schedule 1AA	s 377A
	Part 1	
	Transitional provisions relating to Gambling Amendment Act (No 3) 2014	5
1	Annual reports	
	Section 108 of the principal Act as in force before the commencement of section 10 of the Gambling Amendment Act (No 3) 2014 continues to apply to any annual report that relates to a period that commenced before that commencement.	10
2	Publication requirements	
	A corporate society may, in respect of any matter that occurred before the commencement of section 11 of the Gambling Amendment Act (No 3) 2014 , choose to comply with section 110 of the principal Act as in force before that commencement instead of section 110 of the principal Act as in force on that commencement.	15
3	Certain venue agreements deemed to be amended	
	A venue agreement that is in force on the commencement of regulations under section 371(1)(db) is, to the extent of any inconsistency with those regulations, deemed, on and from that commencement, to be amended so as to make that agreement consistent with those regulations, and, in particular, any provision in that agreement—	20 25
	(a) is deemed to be deleted so far as it provides for the payment of a matter for which the venue operator may not be paid under those regulations; and	
	(b) that provides for payment in excess of a limit prescribed by those regulations is deemed to be reduced so as not to exceed that limit.	30

Part 1—*continued*

- 4** **No judicial review unless and until appeal rights exercised**
Section 235A of the principal Act as inserted by **section 17**
of the Gambling Amendment Act (No 3) **2014** applies to de-
cisions by the Secretary made on or after the commencement
of that **section 17**, but does not apply to decisions made be- 5
fore that commencement.