

## GAMING AND LOTTERIES AMENDMENT BILL (NO.3)

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### EXPLANATORY NOTE

#### GENERAL POLICY STATEMENT

THIS Bill provides for a mandatory levy on non-casino gaming machine operators to fund problem gambling services. It also provides for the approval by the Minister of Internal Affairs of a problem gambling committee to which the funds collected by way of the levy are to be paid.

#### Background

The Government has recently established a policy towards provision of problem gambling services for persons suffering from problem gambling. Key elements of the policy are:

- (a) The gaming industry should meet the costs of problem gambling services;
- (b) Representatives of major gaming operations and of major providers of problem gambling services should work together to address issues in relation to problem gambling;
- (c) Purchase and auditing of problem gambling services should be based on information provided independently from the group that collects and determines the total contribution;
- (d) So far as possible the arrangement should be on a voluntary basis.

An Agreement to provide funding for services for problem gamblers has been developed by the Committee on Problem Gambling Management (COPGM) which is representative of the major gaming industry sector groups (presently casinos, racing, lotteries, and non-casino gaming machines) and the main providers of problem gambling services.

The Agreement provides for an amount of funding to be contributed voluntarily by each gaming industry sector, towards a total amount which is determined by COPGM annually. While other sectors are presently able to commit the funds voluntarily, the gaming machine sector is unable to do so, due to the practicalities of ensuring the collection of the funds from hundreds of independent gaming machine operators.

The Gaming Industry of New Zealand (GINZ), which is the current representative of gaming machine operators on COPGM, has requested that the Government impose a levy on all gaming machines outside casinos in order to secure an equitable contribution to the Agreement.

## Objectives

The objectives of the Bill are—

- (a) To allow the Minister of Internal Affairs to approve a problem gambling committee consisting of representatives of the gaming industry and problem gambling service providers, which will have the following functions:
- (i) to provide a forum for discussions between representatives of the gaming industry and representatives of problem gambling service providers;
  - (ii) to give advice to the Minister regarding the total amount of funding to be contributed by the gaming industry, and the amount which will be contributed to this total by the gaming machine sector;
  - (iii) to ensure independent advice will be sought for the purchase of problem gambling services;
- (b) To impose a levy in respect of each non-casino gaming machine licensed in New Zealand which will meet that machine's contribution to the gaming machine sector's total contribution. The total contribution will be determined by the problem gambling committee and advised to the Minister each year.

## Levy Mechanism

The Minister of Internal Affairs will recommend that the Governor-General set the rate of the levy annually by Regulation by Order in Council. The proposed quantum of the levy will be calculated by the Minister of Internal Affairs by dividing the agreed contribution of the gaming machine sector plus any reasonable collection expenses of the Department of Internal Affairs, by the total number of licensed gaming machines in New Zealand.

### OTHER EXPLANATORY NOTES

*Clause 1* relates to the Short Title and commencement. The Act commences on 20 August 1996.

*Clause 2* amends the interpretation section of the Gaming and Lotteries Act 1977.

*Clause 3* inserts in the Gaming and Lotteries Act 1977 a new Part VIIA, dealing with problem gambling.

*New section 116ZF* sets out the functions of the problem gambling committee.

*New section 116ZG* provides that the Minister of Internal Affairs may approve a committee as the problem gambling committee. The Minister must be satisfied of the matters set out in *new section 116ZG (4)* before approving a committee.

*New section 116ZH* deals with the information that must be provided in support of an application for approval as the problem gambling committee.

*New section 116ZI* provides that the Minister may require the problem gambling committee to furnish information to the Minister.

*New section 116ZJ* provides that information required by the Minister must be furnished, subject to privileges available in a court of law.

*New section 116ZK* provides for the revocation of an approval as the problem gambling committee.

*New section 116ZL* provides that the Minister may appoint a commissioner if the approval of the problem gambling committee is revoked.

*New section 116ZM* provides that the problem gambling committee is a separate legal entity from the Department of Internal Affairs and is neither owned nor controlled by the Crown.

*New section 116ZN* specifies the process for determining the levy payable on each gaming machine subject to a licence under section 8 of the Gaming and Lotteries Act 1977. It also provides for the making, on the recommendation of the Minister, of regulations prescribing the levy.

*New section 116ZO* requires the payment of levies by societies licensed under section 8.

*New section 116ZP* provides for the payment of additional levies if the number of gaming machines subject to a licence increases.

*New section 116ZQ* provides for refunds of levies in the circumstances set out in the section.

*New section 116ZR* makes payment of levies and additional levies a requirement of the issue and renewal of a licence.

*New section 116ZS* provides that levies and additional levies are recoverable in court as a debt due to the Crown.

*New section 116ZT* provides for the banking of levies in a Trust Bank Account and their payment to the problem gambling committee.

*New section 116ZU* is a transitional provision. Between 20 August 1996 and 31 December 1996 regulations prescribing a levy on gaming machines may be made on the recommendation of the Minister, who must first consult such individuals and organisations as he or she thinks fit. The process specified in the Act for determining the levy payable on each gaming machine subject to a licence is not to be followed.

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Hon. Peter Dunne

## GAMING AND LOTTERIES AMENDMENT (NO. 3)

### ANALYSIS

Title	116ZK. Revocation of approval
1. Short Title and commencement	116ZL. Appointment of commissioner on revocation of approval
2. Interpretation	116ZM. Status of problem gambling committee
3. New heading and Part inserted	
<b>PART VIIA</b>	
<b>PROBLEM GAMBLING</b>	
<i>Functions of Problem Gambling Committee</i>	
116ZF. Functions of problem gambling committee	<i>Imposition and Payment of Levy</i>
<i>Approval of Problem Gambling Committee</i>	
116ZG. Approval of problem gambling committee	116ZN. Process for determining levy
116ZH. Application for approval	116ZO. Societies to pay levies
116ZI. Minister may require information	116ZP. Additional levies
116ZJ. Committee's information subject to privilege	116ZQ. Refunds of levies
	116ZR. Payment of levy requirement of licence
	116ZS. Recovery of levy
	116ZT. Status and administration of levy
	116ZU. Transitional provision for 1996/97 financial year

### A BILL INTITULED

#### A Bill to amend the Gaming and Lotteries Act 1977

BE IT ENACTED by the Parliament of New Zealand as follows:

5     **1. Short Title and commencement**—(1) This Act may be cited as the Gaming and Lotteries Amendment Act (No. 3) 1996, and shall be read together with and deemed part of the Gaming and Lotteries Act 1977\* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 20th day of August 1996.

10     **2. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

\*R.S. Vol. 33, p. 17

“ ‘Commissioner’ means a commissioner appointed under section 116ZL (1) of this Act:

“ ‘Financial year’, in Part VIIA of this Act, means a period of 12 months commencing on the 1st day of July and ending with the 30th day of June: 5

“ ‘Problem gambling committee’ means the committee for the time being approved by the Minister under section 116ZG of this Act:

“ ‘Problem gambling services’ includes services relating to— 10

“(a) Education about problem gambling:

“(b) The prevention of problem gambling:

“(c) Research into problem gambling:

“(d) The treatment of problem gambling: 15

“(e) The evaluation of providers of problem gambling services:”.

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “society”, and substituting the following definition:

“ ‘Society’ means— 20

“(a) Any corporation sole, association of persons (whether incorporated or not), or local or affiliated branch of any such association, that is established and conducted entirely for any purpose other than a commercial one; and 25

“(b) In Part VIIA of this Act, a society as defined in paragraph (a) of this definition that is licensed under section 8 of this Act to conduct a game of chance involving the use of one or more gaming machines:”.

**3. New heading and Part inserted**—The principal Act is hereby amended by inserting, after section 116ZE, the following heading and Part: 30

“PART VIIA

“PROBLEM GAMBLING 35

“*Functions of Problem Gambling Committee*

“116ZF. **Functions of problem gambling committee**—The problem gambling committee shall have the following functions (without limiting any other function that the committee may have): 40

“(a) To provide a forum for discussions between representatives of the gaming industry and

representatives of providers of problem gambling services; and

“(b) To give advice to the Minister under **section 116ZN (1)** of this Act; and

5 “(c) To purchase problem gambling services.

*“Approval of Problem Gambling Committee*

“**116ZG. Approval of problem gambling committee—(1)**  
Subject to this section, the Minister may from time to time, on application made to the Minister in accordance with **section 116ZH** of this Act, approve any committee to act as the problem gambling committee for the purposes of this Act.

10 “(2) An approval under this section shall—

“(a) Be granted by notice published in the *Gazette*, and shall take effect from the date of publication of such notice or such later date as may be specified in the notice; and

15 “(b) Continue in force until it is revoked under **section 116ZK** of this Act.

“(3) The Minister may grant an approval under this section subject to such conditions as the Minister thinks fit.

20 “(4) The Minister shall not approve a committee under this section unless the Minister is satisfied that—

“(a) The committee includes representatives of the following:

25 “(i) Societies; and

“(ii) Organisations conducting large-scale gaming operations; and

“(iii) Providers of problem gambling services; and

30 “(iv) Such other individuals or organisations as the Minister thinks fit; and

“(b) The committee will act as a forum for discussions between representatives of the gaming industry and representatives of providers of problem gambling services; and

35 “(c) The committee is capable of giving advice to the Minister under **section 116ZN (1)** of this Act; and

“(d) The committee is capable of ensuring that every sector of the gaming industry represented on the committee, other than societies, provides an appropriate amount towards the amount referred to in **section 116ZN (1) (a)** of this Act; and

40 “(e) The committee will use the amount referred to in **section 116ZN (1) (a)** of this Act—

- “(i) Primarily to purchase problem gambling services; and
- “(ii) Secondly to meet the reasonable administrative costs of the committee; and
- “(f) The committee will ensure that it receives advice on the purchase of problem gambling services from a person who is not a member, an employee of a member, or an employee of the committee; and 5
- “(g) The committee will ensure—
  - “(i) That full and correct records of all its financial transactions, assets, liabilities, and funds are kept at all times; and 10
  - “(ii) That the committee’s accounts are audited by a person who is not a member, an employee of a member, or an employee of the committee. 15
- “(5) The Minister shall not decline an application for approval under this section without first—
  - “(a) Giving the applicant a copy of any information on which the Minister relies in proposing to decline the application; and 20
  - “(b) Giving the applicant a reasonable opportunity to make written submissions to the Minister in relation to that information; and
  - “(c) Taking into account any submissions made under paragraph (b) of this subsection. 25
- “116ZH. **Application for approval**—(1) An application for approval as the problem gambling committee under section 116ZG of this Act shall—
  - “(a) Include a list of the members of the committee seeking approval; and 30
  - “(b) Address each of the matters specified in section 116ZG (4) of this Act.
- “(2) The Minister may, for the purposes of deciding whether or not to grant an approval under section 116ZG of this Act, require any committee that applies for an approval to furnish to the Minister such further information as the Minister requires relating to any of the matters specified in section 116ZG (4) of this Act. 35
- “116ZI. **Minister may require information**—The Minister may, at any time, require the problem gambling committee— 40
  - “(a) To furnish to the Minister such information as the Minister requires concerning its financial transactions, assets, liabilities, and funds:

“(b) To furnish to the Minister, for the purposes of enabling the Minister to decide whether or not to revoke an approval granted under section 116ZG of this Act, such information as the Minister requires relating to any of the matters specified in section 116ZK (1) of this Act.

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“116ZJ. **Committee’s information subject to privilege**—Where—

“(a) A committee is required to furnish information to the Minister under section 116ZH (2) of this Act; or

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“(b) The problem gambling committee is required to furnish information to the Minister under section 116ZJ of this Act,—

the committee or the problem gambling committee, as the case may be, shall furnish the information but shall not be obliged to furnish any information that would be subject to privilege in a court of law.

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“116ZK. **Revocation of approval**—(1) Subject to subsection (2) of this section, the Minister may at any time, by notice in writing published in the *Gazette*, revoke an approval granted under section 116ZG of this Act if the Minister is satisfied that the problem gambling committee—

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“(a) No longer meets all of the requirements for approval specified in section 116ZG (4) of this Act; or

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“(b) Has failed to comply with any condition imposed by the Minister on that committee’s approval under section 116ZG (3) of this Act; or

“(c) Has failed to comply with any obligation imposed on that committee by or under this Act.

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“(2) The Minister shall not revoke any approval pursuant to subsection (1) of this section without first—

“(a) Giving the committee a copy of any information on which the Minister relies in proposing to revoke the approval; and

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“(b) Giving the committee a reasonable opportunity to make written submissions to the Minister in relation to that information; and

“(c) Taking into account any submissions made under paragraph (b) of this subsection.

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“116ZL. **Appointment of commissioner on revocation of approval**—(1) Where the Minister revokes an approval under section 116ZK of this Act, the Minister may appoint a commissioner.



“(2) A commissioner may purchase problem gambling services in accordance with provisions specified by the Minister in the commissioner’s instrument of appointment.

“(3) A commissioner shall—

“(a) At all times keep full and correct records of all the commissioner’s financial transactions, assets, liabilities, and funds; and 5

“(b) Ensure that the commissioner’s accounts are properly audited; and

“(c) Pay any refund required to be paid under **section 11620 (1) (b)** of this Act; and 10

“(d) Operate and maintain an account for the purposes of **section 11621 (2)** of this Act, whether the account operated and maintained by the committee whose approval under **section 11626** of this Act has last been revoked or another account. 15

“(4) Where a commissioner operates and maintains, for the purposes of **section 11621 (2)** of this Act, the account operated and maintained by the committee whose approval under **section 11626** of this Act has last been revoked, any thing that, if done by or on behalf of that problem gambling committee, had to be done by the observance of a particular formality may be done by the signature of the commissioner. 20

“(5) There shall be paid to a commissioner, from the funds of the committee whose approval under **section 11626** of this Act has last been revoked, such remuneration as the Minister from time to time determines. 25

“(6) The Minister may at any time, by notice in the *Gazette*, terminate the appointment of any commissioner, and appoint another. 30

“(7) If a commissioner—

“(a) Resigns by written notice to the Minister; or

“(b) Dies,—

the Minister may, by notice in the *Gazette*, appoint another.

“(8) A commissioner’s term of office, if not terminated earlier under **subsection (6)** or **subsection (7)** of this section, terminates when an approval of a problem gambling committee takes effect under **section 11626 (2) (a)** of this Act. 35

“(9) Where a commissioner’s term of office terminates under **subsection (8)** of this section, any funds held by the commissioner shall be transferred, by virtue of this subsection, to the problem gambling committee. 40

“1162M. **Status of problem gambling committee**—The problem gambling committee—

“(a) Is a separate legal entity from the Department; and

“(b) Is neither owned nor controlled by the Crown.

“*Imposition and Payment of Levy*

5 “116ZN. **Process for determining levy**—(1) No later than the 1st day of June of each year, the problem gambling committee shall advise the Minister of—

10 “(a) The amount that the committee has determined shall be provided, in the next financial year, for the purchase of problem gambling services by the committee and for the reasonable administrative costs of the committee; and

“(b) The amount that societies are required to provide towards the amount referred to in **paragraph (a)** of this subsection.

15 “(2) On receiving advice under **subsection (1)** of this section, the Minister shall cause the amount of the proposed levy payable in respect of each gaming machine to be calculated as follows:

$$\frac{a}{b}$$

20 where—

a is the total of the amount specified in **subsection (1) (b)** of this section and any costs reasonably likely to be incurred by the Department in collecting the levies; and

25 b is the total number of gaming machines subject to licences issued or renewed under section 8 of this Act at the time at which the calculation is made.

“(3) Before making a recommendation under **subsection (4)** of this section, the Minister shall—

30 “(a) Inform societies’ representatives on the problem gambling committee of the amount of the proposed levy calculated under **subsection (2)** of this section; and

“(b) Give those representatives a reasonable opportunity to make written submissions to the Minister in relation to the amount of the levy; and

35 “(c) Cause the amount of the levy to be calculated taking into account any submissions made under **paragraph (b)** of this subsection.

40 “(4) The Governor-General may from time to time, on the recommendation of the Minister, by Order in Council, make regulations for all or any of the following purposes:

“(a) Imposing on every society a levy in respect of each gaming machine subject to its licence:

“(b) Specifying the time at which the levy is due and payable, which time may be different for different categories of societies.

“116ZO. **Societies to pay levies**—Every society shall pay the prescribed levy in respect of each gaming machine subject to its licence. 5

“116ZP. **Additional levies**—(1) In any case where—

“(a) A licence for the conduct of games of chance involving the use of one or more gaming machines has been issued or renewed for a specified period of time; and 10

“(b) Within the specified period of time the licence is amended so as to increase the number of gaming machines subject to the licence,—  
an additional levy, of an amount calculated in accordance with subsection (2) of this section, shall be payable, in respect of each additional machine, by the holder of the licence. 15

“(2) Every additional levy payable under subsection (1) of this section shall be calculated as follows:

$$\frac{a}{b} \times c \quad 20$$

where—

- a is the number of whole months of the specified period of the licence that remains unexpired at the time of the increase in the number of gaming machines subject to the licence; and 25
- b is the specified period of the licence expressed in whole months; and
- c is the prescribed levy.

“116ZQ. **Refunds of levies**—(1) Every refund payable under this section shall be paid— 30

“(a) By the Department, from the Trust Bank Account referred to in section 116ZT (1) (b) of this Act; or

“(b) By the problem gambling committee, if there are insufficient funds in the Trust Bank Account to pay the refund. 35

“(2) Where any society has paid a levy in error, the levy so paid shall be refunded.

“(3) Where any society has paid a levy in excess of the amount properly payable, the excess amount so paid shall be refunded. 40

“(4) In any case where—

“(a) A licence for the conduct of games of chance involving the use of one or more gaming machines has been issued or renewed for a specified period of time; and

5 “(b) Within the specified period of time the licence is amended so as to reduce the number of gaming machines subject to the licence,—

an amount calculated in accordance with subsection (5) of this section shall be refunded, in respect of each gaming machine no longer subject to the licence.

10 “(5) Every refund under subsection (4) of this section shall be calculated as follows:

$$\frac{a}{b} \times c$$

15 where—

a is the number of whole months of the specified period of the licence that remains unexpired at the time of the reduction in the number of gaming machines subject to the licence; and

20 b is the specified period of the licence expressed in whole months; and

c is the prescribed levy.

“(6) In any case where—

25 “(a) A licence for the conduct of games of chance involving the use of one or more gaming machines is renewed for a specified period of time; and

“(b) The licence is renewed so as to increase the number of gaming machines subject to the licence; and

30 “(c) The date on which the renewed licence is expressed to come into force is earlier than the date at which the renewed licence is dated,—

an amount calculated in accordance with subsection (7) of this section shall be refunded, in respect of each additional gaming machine.

35 “(7) Every refund under subsection (6) of this section shall be calculated as follows:

$$\frac{a}{b} \times c$$

where—

40 a is the period between the date on which the renewed licence is expressed to come into force and the date at which the renewed licence is dated, expressed in whole months; and

- b is the specified period of the licence expressed in whole months; and
- c is the prescribed levy.

**“116ZR. Payment of levy requirement of licence—**(1) No licence shall be issued or renewed under section 8 of this Act unless the society pays the prescribed levy in respect of each gaming machine subject to the licence. 5

**“(2)** No licence issued or renewed under section 8 of this Act shall be amended so as to increase the number of gaming machines subject to the licence unless the society pays the additional levy payable under **section 116ZP** of this Act. 10

**“116ZS. Recovery of levy—**Every levy and additional levy payable under this Part of this Act shall be recoverable in any court of competent jurisdiction as a debt due to the Crown.

**“116ZT. Status and administration of levy—**(1) Every levy and additional levy paid under this Part of this Act— 15

**“(a)** Shall be deemed to be trust money for the purposes of the Public Finance Act 1989, and every provision of that Act that relates to trust money shall apply to the levy accordingly with any necessary modifications; and 20

**“(b)** Shall be lodged in a Trust Bank Account operated and maintained by the Department for the purpose; and

**“(c)** Shall have deducted from it, in accordance with any terms and conditions contained in any directions given under section 67 (3) of the Public Finance Act 1989, the costs reasonably incurred by the Department in collecting it. 25

**“(2)** No less frequently than quarterly the Department shall transfer the contents of the Trust Bank Account referred to in **subsection (1) (b)** of this section to an account operated and maintained by the problem gambling committee. 30

**“116ZU. Transitional provision for 1996/97 financial year—**(1) Notwithstanding anything in this Part of this Act but subject to the provisions of this section, the Governor-General may from time to time, on the recommendation of the Minister, by Order in Council, make regulations for all or any of the following purposes: 35

**“(a)** Imposing on every society a levy in respect of each gaming machine subject to its licence: 40

**“(b)** Specifying the time at which the levy is due and payable, which time may be different for different categories of societies.

“(2) The Minister shall not make a recommendation under **subsection (1)** of this section without first consulting such individuals and organisations as the Minister thinks fit.

5 “(3) For the purposes of **subsection (2)** of this section, the Minister may, at the Minister’s discretion, consult representatives of the following:

“(a) Societies; and

“(b) Organisations conducting large-scale gaming operations;  
and

10 “(c) Providers of problem gambling services.

“(4) No regulations may be made under this section after the 31st day of December 1996.”