

House of Representatives

Supplementary Order Paper

Thursday, 31 July 2003

Responsible Gambling Bill

Proposed amendments

Hon Georgina te Heuheu, in committee, to move the following amendments:

Clause 4

To insert, in their appropriate alphabetical order, the following definitions:

public notice, means a notice published in—

- (a) one or more daily newspapers circulating in the region to which the Rotorua application relates; or
- (b) one or more other newspapers that have at least an equivalent circulation to the daily newspapers circulating in that region,—

together with such other public notice (if any) as the Gambling Commission thinks desirable in the circumstances

Rotorua application means an application by Rotorua Casino Limited, a company incorporated in the Wellington Registry on 17 June 1997, number WN858243, made under **section 101(4)** for a casino venue licence to operate in the district of Rotorua, in so far as the application is the same application, in substance or effect, as was lodged on 27 November 1997 by Rotorua Casino Limited to the Casino Control Authority for a casino licence

Clause 101

To omit subclause (4) (lines 34 and 35 on page 114), and substitute the following subclauses:

- (4) Subject to **subsection (5)**, no new casino venue licence applications will be considered under this Act, but casino venue licences may be renewed.

- (5) Despite **subsection (4)**, a Rotorua application for a new casino venue licence may be made and considered by the Gambling Commission.
- (6) A Rotorua application for a casino venue licence made under **subsection (5)** must be assessed according to the process, requirements, and criteria set out in **Schedule 1B**.

Clause 103(1)

To insert, after the words “or for renewal of a casino venue licence” (line 15, page 117), the words “or for approval of the Rotorua application for a casino venue licence,” .

Schedule 1B

To insert, after **Schedule 1A**, the following new schedule:

Schedule 1B s101
Assessment of Rotorua application for casino venue licence

- 1 Interpretation**
In this schedule, **application** means an application made under **section 101(5) and (6)**.
- 2 Rotorua application for casino venue licence**
An application for a casino venue licence made under **section 101(5) and (6)** must be—
 - (a) on the relevant form as specified by the Gambling Commission; and
 - (b) accompanied by a fee specified by the Gambling Commission; and
 - (c) accompanied by a casino impact report prepared in accordance with **clause 3**.
- 3 Casino impact report**
 - (1) A casino impact report must be prepared in respect of the application by a person approved by the Gambling Commission as independent of the applicant.
 - (2) A casino impact report must—
 - (a) report on the expected social and economic effects of the proposed casino on the local and regional areas affected, and on New Zealand generally; and
 - (b) report on other matters identified by the Gambling Commission.
 - (3) The Gambling Commission may specify the research to be undertaken in preparing a casino impact report.
 - (4) The applicant for a casino venue licence must pay all costs associated with the casino impact report.

3 Process for determining the application

After receiving the application for a casino venue licence under **section 101(5)**, the Gambling Commission must do the following things, although not necessarily in the order given—

- (a) give public notice of the application; and
- (b) make available for public inspection copies of the casino venue licence application, the casino impact report and any other relevant documents including amendments to the application; and
- (c) invite written submissions on the application from people or organisations about the matters covered in the casino impact report; and
- (d) invite persons who wish to be heard at a public hearing to apply to the Gambling Commission; and
- (e) give public notice of the commencement of hearings including information as to time and location; and
- (f) conduct a public hearing of the application; and
- (g) give public notice of the decision of the Gambling Commission on the application; and
- (h) make copies of the decision available to the public.

4 Suitability requirements for application

Before granting the application, the Gambling Commission must determine whether it is satisfied that the applicant or an associated person is suitable, taking into account those matters specified in **section 102(2)**.

5 Information and matters to be considered

In considering the application the Gambling Commission must consider—

- (a) the application; and
- (b) the casino impact report; and
- (c) the standard and nature of the proposed casino and the facilities to be provided in or in conjunction with the proposed casino; and
- (d) any written or oral submissions; and
- (e) the purposes for which the casino venue licence is sought, especially in so far as whether the casino will be operated largely for a charitable purpose; and
- (f) any views conveyed by the local authority in the district where the proposed casino is to be established, provided the local authority has conducted a community consultation process to gather both relevant facts and views on the proposed casino; and
- (g) the results of investigations made in accordance with **section 103**.

6 Determination of application

- (1) The Gambling Commission must not approve the application and grant a casino venue licence unless it is satisfied that—
 - (a) the applicant and associated persons are suitable in terms of **section 102**; and
 - (b) granting the licence will result in a net benefit to—
 - (i) the local and regional communities in the vicinity of the casino; and
 - (ii) New Zealand generally; and
 - (c) granting the licence will ensure local community-orientated ownership.
- (2) In assessing whether there is a net benefit in terms of **subclause (1)(b)**, the Gambling Commission must consider—
 - (a) the social and economic effects; and
 - (b) the purposes for which the casino venue licence is sought, especially insofar as whether the casino will be operated largely for a charitable purpose; and
 - (c) the level of support for the application, including the outcomes of any community consultation process conducted by the local authority in the district; and
 - (d) the nature and standard of the proposed casino facilities.
- (3) Every casino venue licence must be issued in the prescribed form.

7 No right of appeal

No decision, or aspect of the decision, made by the Gambling Commission on the application may be appealed.

Explanatory note

The amendments are designed to ensure the harm done to Rotorua Casino Ltd by the Casino Control Authority (Moratorium) Act 1997 and the Casino Control Authority (Moratorium) Act 2000 is not continued and increased by the Responsible Gambling Bill.

The amendments are designed to ensure an application by Rotorua Casino Ltd for a casino venue licence is considered on terms that achieve the stated objectives of the earlier moratorium legislation and take into account concerns about private ownership of gambling facilities for private profit.

At the time when the 1997 Act was passed to implement a three-year moratorium on the issue of new casino licences, the Attorney-General warned Parliament that the legislation breached the Bill of Rights Act.

The unconstitutional aspect of the legislation related to its retrospective application, backdated to the date of its introduction, thereby rendering illegal an activity which had been legal at the time it was conducted.

The effect of the Act was to rule out of consideration two applications which had been well advanced in the course of preparation before the Bill was

introduced and had been lodged with the Casino Control Authority after the date of the Bill's introduction but before it became law.

Four other applications for casino venue licences which had been completed or partially completed and lodged before the Bill was introduced were allowed to proceed.

The 1997 Act recognised the harm done to the interests of the two rejected applicants. The Act included a provision barring these applicants from seeking or gaining compensation or damages for the harm done by the retrospective application of the moratorium.

However it was generally understood, as stated by a number of speakers in the course of debate on the 1997 and 2000 Acts, that the moratorium was a temporary measure introduced to allow time for a full review of gambling legislation. Once the review had been completed, applications for casino venue licences could be considered under the terms of the new legislation. New legislation was expected to set more stringent conditions, and in particular to provide for more extensive public consultation in the district where the casino was proposed.

Thus, though the harm done to the interests of Rotorua Casino Ltd by the unconstitutional aspect of the moratorium legislation was severe, it was at least temporary.

The Responsible Gambling Bill now proposes to make that damage permanent, significantly extending the harm inflicted by the 1997 and 2000 legislation.

The amendments in Schedule 1B of this Supplementary Order Paper also implement a stated objective of the moratorium by making provision for extensive and effective public consultation with the people of Rotorua on the Rotorua application.

This provision reflects the expressed wish of a majority of the people of the area, in a survey by a leading polling company in April 2003, for the opportunity to consider whether the city, recognised as New Zealand's premier international tourism destination, should have a resort casino.

The amendments will also go some way towards removing an unfortunate side effect of the moratorium legislation and the Responsible Gambling Bill. The retrospective implementation of the 1997 moratorium has created a total monopoly of the casino market in the North Island by one company, and a substantial dominance of the market in New Zealand by the same company.

The Responsible Gambling Bill in its present form will permanently entrench that monopoly and give it legal protection.

All parties recognise that such monopolies or market dominance are generally undesirable and not in the interests of New Zealand and its people.

The effects of such dominance on legitimate tourism and related interests have not been addressed by the Responsible Gambling Bill. They deserve consideration.

