



## **Gambling (Class 4 Net Proceeds) Amendment Regulations 2020**

Patsy Reddy, Governor-General

### **Order in Council**

At Wellington this 29th day of June 2020

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 114 of the Gambling Act 2003—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the advice of the Minister of Internal Affairs after consultation in accordance with section 372 of that Act.

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**Schedule**  
**New Schedule 1 inserted**

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**Regulations****1 Title**

These regulations are the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020.

**2 Commencement**

These regulations come into force on 1 July 2020.

**3 Principal regulations**

These regulations amend the Gambling (Class 4 Net Proceeds) Regulations 2004 (the **principal regulations**).

**4 New regulation 3A inserted (Transitional, savings, and related provisions)**

After regulation 3, insert:

**3A Transitional, savings, and related provisions**

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

**5 Regulation 10 amended (Minimum amount for authorised purposes)**

After regulation 10(4), insert:

- (5) The minimum amount equivalent to 40% of the specified amount prescribed in subclause (1) does not apply for a licence holder's financial year ending in 2020 or 2021 (regardless of the month that the licence holder's financial year ends in).

**6 Regulation 11 amended (Timing requirements for application or distribution of proceeds for authorised purposes)**

After regulation 11(2), insert:

- (3) The timing requirements for the application or distribution of proceeds in subclause (1) do not apply during a licence holder's financial year ending in 2020 or 2021 (regardless of the month that the licence holder's financial year ends in).
- (4) This regulation is subject to regulation 11A.

**7 New regulation 11A inserted (Retention of net proceeds)**

After regulation 11, insert:

**11A Retention of net proceeds**

- (1) A licence holder may withhold from application or distribution to or for authorised purposes an amount of net proceeds not exceeding a maximum working capital ratio of 1.5 to 1 (calculated as current assets divided by current liabilities).
- (2) The licence holder may retain that amount of net proceeds solely for the purpose of satisfying the requirement in section 52(1)(c) of the Act.
- (3) The net proceeds retained must be held in a bank account established to hold gaming machine profits in accordance with section 104 of the Act.
- (4) A licence holder withholding net proceeds must calculate its working capital ratio at least once every quarter.

**8 New Schedule 1 inserted**

Insert the Schedule 1 set out in the Schedule of these regulations as the first schedule to appear after the last regulation of the principal regulations.

**Schedule****New Schedule 1 inserted**

r 8

**Schedule 1****Transitional, savings, and related provisions**

r 3A

**Part 1****Provisions relating to Gambling (Class 4 Net Proceeds) Amendment  
Regulations 2020****1 Interpretation**

In this Part, **amendment regulations** means the Gambling (Class 4 Net Proceeds) Amendment Regulations 2020.

**2 Retrospective application of regulation 10(5)**

Regulation 10(5), as inserted by the amendment regulations, applies between 25 March 2020 and the commencement of this clause as if it were in force during that time.

**3 Retrospective application of regulation 11(3)**

Regulation 11(3), as inserted by the amendment regulations, applies between 25 March 2020 and the commencement of this clause as if it were in force during that time.

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 on 1 July 2020, are made under the Gambling Act 2003 (the **Act**). They amend the Gambling (Class 4 Net Proceeds) Regulations 2004 (the **principal regulations**).

*Regulation 5* amends regulation 10 of the principal regulations. Regulation 10(1) sets the minimum amount a corporate society that is licence holder must apply to, or distribute for, authorised purposes for each financial year. The amount is the proportion of net proceeds equivalent to 40% of the society's gross proceeds. *New regulation 10(5)* has the effect of suspending the application of regulation 10(1) as from 25 March 2020, for each corporate society, for a financial year ending in 2020 or 2021 so that there is no minimum amount that these licence holders need to apply or distribute during this period. This does not limit the requirement under the Act that all available net proceeds must be applied to, or distributed for, authorised purposes.

*Regulation 6* amends regulation 11 of the principal regulations by inserting *new regulation 11(3) and (4)*. Under regulation 11(1), corporate societies are required to—

- apply or distribute all, or nearly all, of the net proceeds for a financial year to or for authorised purposes on a quarterly basis; and
- apply or distribute the remainder of the net proceeds for a financial year to or for authorised purposes within 3 months after the end of that financial year.

*New regulation 11(3)* has the effect of disapplying the strict quarterly and financial year-end requirements in regulation 11(1) during these licence holders' financial years ending in 2020 and 2021 (while still requiring them to make timely distributions of all or nearly all available net proceeds for those years, subject to *new regulation 11A*). Licence holders will be required to ensure that all or nearly all of their net proceeds are distributed in any quarter ending after their 2021 financial year. They will also be required to distribute any net proceeds remaining from their financial year ending in 2021 by the end of their next financial year.

*Regulation 7* inserts *new regulation 11A*, which permits withholding an amount of net proceeds from distribution to maintain a maximum working capital ratio of 1.5 to 1 (calculated as current assets divided by current liabilities). This retention is permitted solely for the purpose of satisfying the requirement in section 52(1)(c) of the Act that a corporate society's gambling operation must be financially viable for it be licensed as a class 4 operator. *New regulation 11A* will not affect the requirement for licence holders to distribute a minimum of 40% of the gross proceeds to authorised purposes for the financial year ending 2022 and subsequent years. It will temporarily affect the requirement to apply or distribute all or nearly all available net proceeds to or for

authorised purposes within each financial year under regulation 11 (until the maximum 1.5 to 1 ratio is reached).

*Regulation 8* inserts *new Schedule 1* into the principal regulations. *New Schedule 1* sets out the relevant transitional, savings, and related provisions.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 30 June 2020.

These regulations are administered by the Department of Internal Affairs.