
GAMBLING COMMISSION



REPORT OF THE GAMBLING COMMISSION FOR THE YEAR ENDED 30 JUNE 2013

Presented to the House of Representatives pursuant to section 229 of the Gambling Act 2003

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The Minister of Internal Affairs

I have the honour to forward the report of the Gambling Commission (the "Commission") for the year ended 30 June 2013.

Graeme Reeves
Chief Gambling Commissioner

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INTRODUCTION

By the Chief Gambling Commissioner

I am pleased to present to you my annual report for the period 1 July 2012 to 30 June 2013, the Commission's ninth full year of operation.

The Commission has a mixture of regulatory, judicial and advisory functions in relation to gambling and the gambling sector. The functions most regularly exercised by the Commission involve determining applications for approval under casino licence conditions, amending casino licence conditions and considering appeals from gaming machine operators against decisions made by the Department of Internal Affairs (the "Department").

In the last year the Commission determined 127 applications to amend casino licence conditions or grant approvals under casino licence conditions, and five appeals against decisions made by the Department. The Commission also provided recommendations on the setting of the problem gambling levy – a task it undertakes every three years.

Graeme Reeves

Chief Gambling Commissioner

REPORT ON ACTIVITIES

Establishment of the Commission

The Commission was established in March 2004 by section 220 of the Gambling Act 2003 (the "Act"). The Act provides that the Commission shall comprise up to five Commissioners.

The Chief Gambling Commissioner is Graeme Reeves, a barrister and solicitor based in Wellington. Graeme was a Gambling Commissioner from 2004 to December 2010, when he was appointed as the Chief Gambling Commissioner. The other Commissioners are:

- Paul Stanley, who comes from a public health background and has been employed at a senior level in iwi and Urban Māori Authorities
- Lisa Hansen, who is a Wellington barrister
- Russell Bell, who is a Chartered Accountant and business consultant with a background in corporate risk management and assurance
- Abigail Foote, who is a professional director with a background in commercial law and finance.

The Commission is serviced by an Auckland-based Secretariat.

The duties and functions of the Commission are set out in Appendix 1 to this report.

Casinos

The Commission is responsible for casino licensing, with the Department being responsible for operating and equipment standards, game rules and compliance. Casinos can appeal the Commission's decisions on licensing matters to the High Court.

In the year ending 30 June 2013, the Commission made 127 decisions on applications to amend licence conditions, or obtain approvals under licence conditions. Applications related mainly to approval of new signage around the casinos, revised floor layouts and new game mixes. This compares to 57 decisions made last year.

New Zealand has six casinos (new ones being prohibited under the Act), varying considerably in size, as shown below:

Casino	No. of tables	No. of gaming machines
Auckland	110	1,647
Christchurch	36	500
Hamilton	23	339
Dunedin	12	180
Queenstown (SKYCITY)	12	86
Queenstown (Wharf)	6	74

SKYCITY is the dominant operator in New Zealand, operating the Auckland, Hamilton and Queenstown casinos.

In 2013, SKYCITY announced the sale of its share in the Christchurch casino and its purchase of the Wharf casino in Queenstown. This purchase has now settled, meaning that SKYCITY operates four of the six casinos in New Zealand.

Appeals to the Commission

The Department exercises primary licensing and enforcement functions in relation to non-casino gambling (gaming machines and large-scale lotteries). As at 30 June 2013, there were 351 licensed Class 4 gambling operators, 1,356 gaming machine venues and 17,534 gaming machines in New Zealand (down from 361, 1,400 and 17,943 respectively in 2012, and down significantly from the 25,221 gaming machines that were in place in June 2003).

Operators have rights of appeal to the Commission against decisions made by the Department in circumstances including loss of licence, enforcement action and in relation to the imposition of licence conditions by the Department.

In the year ending 30 June 2013, Divisions of the Commission determined four Class 4 appeals, one Class 3 appeal and three Pre-Hearing applications on Class 4 appeals. This compares to the seven decisions made by the Commission last year.

Other appeals were filed with the Commission, but did not proceed to hearing.

An appeal is heard on a *de novo* basis, meaning that the Commission considers the matter afresh.

Judicial Review of Commission decision – GC06/12

Pub Charity Inc. appealed to the Commission against the decision by the Secretary for Internal Affairs to suspend its Class 4 operator's licence. The Secretary suspended the licence for one day on the grounds that it exceeded Limit D of the Limits and Exclusions on Class 4 Venue Costs dated 17 July 2008 for the year ending 31 July 2009.

In its decision dated 16 March 2012 the Commission confirmed the Secretary's decision and thereby upheld the one day suspension imposed by the Secretary.

Pub Charity applied for Judicial Review, challenging the decisions of both the Commission and the Secretary. The High Court granted Pub Charity's application and set aside the decisions of the Secretary and the Commission.

Of particular importance to the Secretary, and to the Commission in its appeal function, the High Court found that the power to suspend operators cannot be used to impose a penalty for past, non-continuing breaches. All appeals against suspension that have come before the Commission in the past have been of this nature. At paragraphs 42-43 of its decision, the High Court held as follows:

“When the plain words of s 59(4) are read in light of the scheme of the Act as we have described, and taking into account that Parliament should not be presumed to have intended to impose a penalty without clear language, we do not consider that the power of suspension permits a short suspension for the purpose of imposing a penalty for a past, non-continuing, breach of the licence.”

“Those considerations lead us to the view that the imposition of a short period of suspension to impose a penalty for a single past breach of the conditions of an operator's licence, for the purpose of deterring that operator or others from similar breaches, is not within the scope of the suspension power in s 58.”

The Secretary has appealed the High Court's decision, with the matter expected to be heard within the next year. In the meantime, the Commission has no ability to impose penalties for past non-continuous breaches.

Report on Problem Gambling Levy

On 20 November 2012, the Commission made recommendations to the Minister of Internal Affairs and the Associate Minister of Health on the total amount of the proposed problem gambling levy for the three year period 1 July 2013 – 30 June 2016, and the proposed levy rate for each gambling sector. The Commission convened a consultation meeting on 8 November 2012 as part of its process to make recommendations and obtained independent expert advice on the Ministry of Health's funding plan.

The Commission's main recommendation was to amend the formula weighting for 2013 – 2016, with a 70 per cent weighting to be placed on the number of people presenting to problem gambling providers and a 30 per cent weighting to be placed on the amount of money lost gambling.

Cabinet decided not to adopt the Commission's recommendation and retained the weighting employed for the previous levy rounds; namely 90:10.

Regulations specifying the levy rate, the Gambling (Problem Gambling Levy) Regulations 2013, commenced on 1 July 2013. A Judicial Review proceeding has been brought by Clubs New Zealand against a number of parties, including the Commission in respect of its consultation and recommendation role.

Miscellaneous

In 2013 the Commission completed its review of the Host Responsibility Programmes for the Christchurch, Dunedin and Wharf casinos. The Commission also undertook the majority of its work in relation to the review of the Programme for the Auckland casino, having consulted widely and engaged an external expert to assist it with its review. The Commission ultimately approved an amended Programme for the Auckland casino in July 2013.

The Commission maintained regular contact with stakeholders throughout the year, including representatives from all six casinos, the Class 4 sector, the Department, the Ministry of Health, researchers and treatment providers. The Commission also met with gambling regulators in Australian State jurisdictions and briefed them on the Commission's work.

The Commission continues to keep abreast of relevant gambling issues at both governance and management levels.

Procedures

In exercising its functions, the Commission has wide powers to determine its own procedures, to engage experts and to receive evidence. The policies and procedures developed by the Commission, and the decisions which it makes, are all published on its website.

Appeal proceedings are run along judicial lines. Procedures involve filing of submissions and affidavit evidence by the appellant, submissions and evidence in response by the respondent Secretary, and submissions and evidence in reply from the appellant.

The Commission consults on applications to amend licence conditions with the casino licence holder, the Secretary and affected persons.

The Commission can, and does, obtain independent legal advice in relation to matters under consideration – both casino applications and appeals.

Apart from its decisions, the Commission (mainly through the Commission Secretariat) communicates on an ongoing basis with stakeholders.

Administration

Under the Act, the Commission has no power to acquire, hold or alienate property, or to employ staff. Instead, the Act requires the Department to service the Commission by arranging the administrative services necessary for the Commission to perform its functions.

The Act also requires the Commission to make decisions independently of the Minister and the Secretary, and to have a stand-alone office. This is located in Auckland.

The Commission is funded from the Department's Vote, but, as noted above, is functionally independent. The Commission's annual budget for 2012/2013 was \$1,128,150, which was under-spent by \$269,807. The Commission notes that its annual expenditure is variable depending upon the volume of applications and appeals before it, and any litigation with which it is involved.

Commission Meetings

The Commission met 11 times during the year under review: 13 July, 17 August, 14 September, 12 October, 9 November, 7 December, 15 February, 15 March, 12 April, 10 May and 14 June.

Divisions of the Commission met on 13 July, 14 September, 9 November, 7 December, 10 May and 14 June.

Commissioner Reeves attended the annual Australasian Gambling Commissioner and Board Member Forum in November 2012, and Commissioners Reeves, Hansen and Foote attended the annual Australasian Gambling Regulators' Conference in June 2013.

Future Directions

The primary focus of the Commission in 2013/2014 will be the following activities:

- the ongoing effective discharge of its licensing and appeal functions
- continuing to meet with the sector
- keeping the Minister informed of developments relating to the Commission's functions.

COMMISSION MEMBERS

Graeme Leonard Reeves

Chief Gambling Commissioner
Barrister and Solicitor
Wellington
Appointed: June 2004
Term expiring: July 2015

Paul Joseph Stanley

Company Director
Tauranga
Appointed: March 2004
Term expiring: July 2015

Lisa Mary Hansen

Barrister
Wellington
Appointed: March 2011
Term expiring: December 2013

Russell Duncan Bell

Accountant and Business Consultant
Whanganui
Appointed: July 2011
Term expiring: July 2014

Abigail Kate Foote

Director
Christchurch
Appointed: July 2011
Term expiring: July 2014

CONTACT DETAILS FOR COMMISSION

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Eden Terrace, Auckland 1021
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Shortland Street, Auckland 1140

Tel: (09) 300 1113
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Blair Cairncross

Executive Director

Website

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Email

info@gamblingcom.govt.nz

APPENDIX 1

Duties and Functions of the Commission under the Gambling Act 2003

The Commission is an independent decision-making body with the powers of a Commission of Inquiry. Its functions are wide-ranging and include the following:

- specifying, varying and revoking casino licence conditions
- considering and determining applications for casino operators' licences and the renewal of casino venue licences (the first of the existing six venue licences expires in 2019)
- approving agreements and changes to agreements between casino operators and casino venue licence holders
- considering and determining appeals against regulatory and licensing decisions made by the Department in respect of Class 3 and Class 4 gambling (Class 3 gambling involves prizes of more than \$5,000, but does not take place at a casino or involve gaming machines. Class 4 gambling relates to non-casino gaming machine operations.)
- considering and dealing with complaints about the way the Department has handled complaints in relation to Class 4 gambling
- advising the Minister of Internal Affairs on matters relating to the performance of the Commission's functions and the administration of the Act, either at the Minister's request or on its own initiative
- advising Ministers and facilitating consultation on the setting of the problem gambling levy.

APPENDIX 2

Decisions of the Commission: 2012/2013 (including Delegated Approvals of Commission)

Decision		Status
GC16/12	Appeal by Pub Charity Inc. against suspension of Class 4 venue licence at McGinty's Turf and Sports Bar	Declined (varied the Secretary's decision)
GC17/12	Application by SKYCITY Hamilton Limited ("SHL") for approval of a new sign for the Hamilton casino	Approved
GC18/12	Application by SKYCITY Casino Management Limited ("SCML") for approval of new game mixes for the Auckland casino	Approved
GC19/12	Applications by Christchurch Casinos Limited ("CCL"); to vary conditions 9A and 9B of its venue licence; to dispense cash from EFTPOS terminals in the casino's Gambling Area; and to vary condition 15 of its operator's licence	Approved
GC20/12	Appeal by Trillian Trust	Declined (confirmed the Secretary's decision)
GC21/12	Application by SCML for approval of new game mixes for the Auckland casino	Approved
GC22/12	Application by SKYCITY Auckland Limited ("SCAL") to vary conditions 9 and 9A of its venue licence for the Auckland casino	Approved
GC23/12	Application by SHL for approval of a new sign for the Hamilton casino	Approved
GC24/12	Application by CCL for approval of new game mixes	Approved
GC25/12	Appeal by KTJ Investments Limited	Declined (confirmed the Secretary's decision)
GC26/12	Decision on a proposal by the Gambling Commission to vary condition 6 of the venue licences held by SCAL, SHL, CCL, Queenstown Casinos Limited (QCL), Dunedin Casinos Limited and Otago Casinos Limited	Approved
GC27/12	Decision on the amendment by the Gambling Commission of the Responsible Gambling Programme for the Lasseters Wharf casino	
GC28/12	Decision on the amendment by the Gambling Commission of the Responsible Gambling Programme for the Dunedin casino	
GC29/12	Application by SCAL and SCML for approval to open an overseas bank account	Approved
GC30/12	Application by SCML for approval of a new game mix for the Queenstown casino	Approved
GC31/12	Application by SCML for approval of new game mixes for the Auckland casino	Approved
GC32/12	Application by CCL for approval of new floor plans and game mixes	Approved
GC33/12	Application by SCAL to redesignate the Gambling Area at the Auckland casino	Approved
GC34/12	Application by SCAL for approval of construction and design changes and to redesignate the Gambling Area at the Auckland casino	Approved
GC35/12	Appeal by Constellation Communities Trust	Declined (varied the Secretary's decision)
GC36/12	Pre-Hearing application by Cuesports Foundation Limited	Declined

Decision		Status
GC37/12	Decision on the amendment by the Gambling Commission of the Responsible Gambling Programme for the Christchurch casino	
GC38/12	Pre-Hearing application by Bluegrass Holdings Limited	Declined
GC39/12	Decision on a proposal by SCML to introduce Keno at the Auckland casino	Declined
GC01/13	Application by SCAL for approval of construction and design changes and to redesignate the Gambling Area at the Auckland casino	Approved
GC02/13	Application by SCML for approval of new game mixes for the Hamilton casino	Approved
GC03/13	Application by SCML for approval of new game mixes for the Auckland casino	Approved
GC04/13	Application by SHL to redesignate the Gambling Area at the Hamilton casino	Approved
GC05/13	Application by SCAL for approval of construction and design changes and to redesignate the Gambling Area at the Auckland casino	Approved
GC06/13	Application by SCAL to redesignate the Gambling Area at the Auckland casino	Approved
GC07/13	Application by SCML for approval to introduce new surveillance equipment to the Auckland and Queenstown casinos	Approved
GC08/13	Application by SCML and QCL for approval to open bank accounts	Approved
GC09/13	(The application was withdrawn before a written decision was released)	
GC10/13	Application by CCL for approval to deploy automatic shufflers on the Midi Baccarat tables at the Christchurch casino	Approved
GC11/13	Application by SCAL for approval of construction and design changes and to redesignate the Gambling Area at the Auckland casino	Approved
GC12/13	Application by QCL and SCML to redesignate the Gambling Area at the Queenstown casino and to introduce substitute gaming tables	Approved
GC13/13	Application by SCML for approval to vary the game mixes for the Queenstown casino	Approved
GC14/13	Application by Dunedin Casinos Management Limited ("DCML") for approval to deploy automatic shufflers on its Black Jack tables	Approved
GC15/13	Application by CCL for approval to introduce a new wagering option on Three Card Poker	Approved
GC16/13	Appeal by That Was Then This Is Now Charitable Trust	Allowed (reversed the Secretary's decision)
GC17/13	Pre-Hearing application by Bluegrass Holdings Limited	Declined

Delegated Approvals allowed by the Commission: 2012/2013

13 July 2012	Application by SCML for approval of a new floor plan for the Hamilton casino
23 July 2012	Application by SCML for approval of new floor plans for the Auckland casino
26 July 2012	Application by SCAL for approval of signage at the Auckland casino
26 July 2012	Application by SCAL for approval of signage at the Auckland casino
2 August 2012	Application by SCML for approval of new floor plans for the Auckland casino
2 August 2012	Application by SCAL for approval of signage at the Auckland casino
2 August 2012	Application by SCAL for approval of new signage at the Auckland casino
20 August 2012	Application by SCAL for approval of construction and design changes
24 September 2012	Application by SCML for approval of a new floor plan for the Auckland casino
3 October 2012	Application by SCAL for approval of new signage at the Auckland casino
3 October 2012	Application by SCAL for approval of new signage at the Auckland casino
3 October 2012	Application by SCAL for approval of signage at the Auckland casino
3 October 2012	Application by SCAL for approval of signage at the Auckland casino
4 October 2012	Application by SCAL for approval of signage at the Auckland casino
4 October 2012	Application by QCL for approval of signage at the Queenstown casino
4 October 2012	Application by SCAL for approval of signage at the Auckland casino
4 October 2012	Application by SCAL for approval of signage at the Auckland casino
9 October 2012	Application by SCAL for approval of signage at the Auckland casino
9 October 2012	Application by SCAL for approval of signage at the Auckland casino
9 October 2012	Application by SCAL for approval of signage at the Auckland casino
10 October 2012	Application by CCL for approval of construction and design changes
15 October 2012	Application by SCAL for approval of construction and design changes
15 October 2012	Application by SCML for approval of new floor plans for the Auckland casino
15 October 2012	Application by SCAL for approval of signage at the Auckland casino
16 October 2012	Application by QCL for approval of signage at the Queenstown casino
17 October 2012	Application by SCAL for approval of construction and design changes
29 October 2012	Application by QCL for approval of signage at the Queenstown casino
30 October 2012	Application by SCAL for approval of signage at the Auckland casino
7 November 2012	Application by SCML for approval of new floor plans for the Auckland casino

14 November 2012	Application by SCAL for approval of signage at the Auckland casino
15 November 2012	Application by SCAL for approval of signage at the Auckland casino
16 November 2012	Application by SCAL for approval of signage at the Auckland casino
28 November 2012	Application by SCAL for approval of signage at the Auckland casino
29 November 2012	Application by SCAL for approval of signage at the Auckland casino
4 December 2012	Application by SCAL for approval of construction and design changes
4 December 2012	Application by SCML for approval of new floor plans for the Auckland casino
5 December 2012	Application by SCAL for approval of signage at the Auckland casino
6 December 2012	Application by SCAL for approval of signage at the Auckland casino
6 December 2012	Application by SHL for approval of signage at the Hamilton casino
10 December 2012	Application by SCAL for approval of signage at the Auckland casino
11 December 2012	Application by QCL for approval of signage at the Queenstown casino
13 December 2012	Application by SCAL for approval of signage at the Auckland casino
13 December 2012	Application by SCAL for approval of signage at the Auckland casino
14 December 2012	Application by SCAL for approval of signage at the Auckland casino
21 January 2013	Application by SCAL for approval of signage at the Auckland casino
22 January 2013	Application by SHL for approval of signage at the Hamilton casino
25 January 2013	Application by SCAL for approval of signage at the Auckland casino
29 January 2013	Application by SCAL for approval of signage at the Auckland casino
29 January 2013	Application by SCAL for approval of signage at the Auckland casino
30 January 2013	Application by SCAL for approval of signage at the Auckland casino
31 January 2013	Application by SCAL for approval of signage at the Auckland casino
31 January 2013	Application by SCAL for approval of signage at the Auckland casino
5 February 2013	Application by SCAL for approval of signage at the Auckland casino
5 February 2013	Application by SCML for approval of new floor plans for the Auckland casino
13 February 2013	Application by SCAL for approval of signage at the Auckland casino
14 February 2013	Application by SHL for approval of signage at the Hamilton casino
15 February 2013	Application by SCAL for approval of signage at the Auckland casino
18 February 2013	Application by SCAL for approval of signage at the Auckland casino

19 February 2013	Application by SCAL for approval of signage at the Auckland casino
21 February 2013	Application by SCAL for approval of signage at the Auckland casino
22 February 2013	Application by SCAL for approval of signage at the Auckland casino
1 March 2013	Application by DCML for approval of a new floor plan for the Dunedin casino
4 March 2013	Application by SCAL for approval of signage at the Auckland casino
6 March 2013	Application by SCAL for approval of signage at the Auckland casino
6 March 2013	Application by SCAL for approval of signage at the Auckland casino
13 March 2013	Application by SCAL for approval of signage at the Auckland casino
18 March 2013	Application by SCAL for approval of signage at the Auckland casino
22 March 2013	Application by SCAL for approval of signage at the Auckland casino
25 March 2013	Application by SCAL for approval of signage at the Auckland casino
3 April 2013	Application by SCAL for approval of signage at the Auckland casino
3 April 2013	Application by SCML for approval of new floor plans for the Auckland casino
11 April 2013	Application by SCAL for approval of signage at the Auckland casino
15 April 2013	Application by SCAL for approval of signage at the Auckland casino
16 April 2013	Application by SCAL for approval of signage at the Auckland casino
16 April 2013	Application by SCAL for approval of signage at the Auckland casino
17 April 2013	Application by SCAL for approval of signage at the Auckland casino
19 April 2013	Application by SCAL for approval of signage at the Auckland casino
22 April 2013	Application by SCAL for approval of signage at the Auckland casino
24 April 2013	Application by SCAL for approval of signage at the Auckland casino
24 April 2013	Application by SCAL for approval of signage at the Auckland casino
24 April 2013	Application by SCML for approval of new floor plans for the Auckland casino
29 April 2013	Application by SCML for approval of new floor plans for the Auckland casino
2 May 2013	Application by QCL for approval of construction and design changes
9 May 2013	Application by SCAL for approval of signage at the Auckland casino
10 May 2013	Application by QCL for approval of signage at the Queenstown casino
17 May 2013	Application by SCML for approval of new floor plans for the Auckland casino

15 May 2013	Application by QCL for approval of signage at the Queenstown casino
17 May 2013	Application by QCL for approval of signage at the Queenstown casino
21 May 2013	Application by SCAL for approval of signage at the Auckland casino
27 May 2013	Application by SCML for approval of new floor plans for the Auckland casino
29 May 2013	Application by SCAL for approval of signage at the Auckland casino
29 May 2013	Application by SCAL for approval of signage at the Auckland casino
10 June 2013	Application by SCAL for approval of signage at the Auckland casino
14 June 2013	Application by SCML for approval of new floor plans for the Auckland casino
14 June 2013	Application by SCAL for approval of signage at the Auckland casino

