# Regulatory Impact Statement

## Class 4 gambling venue payment regulations

### Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Department of Internal Affairs (the Department). It uses a combination of cost benefit and multi-criteria analysis to consider a range of options for a new venue payments regime for Class 4 gambling[[1]](#footnote-1). The recommendations have been made after significant consultation with the sector.

The analysis has been undertaken at the same time as Cabinet has been considering a broader review of the class 4 gambling sector to determine if it remains fit-for-purpose. A new regime will be successful if it contributes to the outcome sought for the wider class 4 gambling reform, which is for class 4 gambling to have a low cost, risk based regulatory framework that ensures sustainable fund-raising for the community.

#### Time constraints

The Gazette notice that currently limits venue payments will no longer be supported by the law within a year of the Gambling Amendment Act 2015 (No 2) passing. To provide for venue payments, new regulations are required to be in place by **21 October 2016**.

#### Venue payment data analysis

The analysis used the following two sample sets of venue payment data:

* sample 1: data on 324 venues’ average gaming machine proceeds (GMP) and venue payments from 2013 to late 2014 supplied to the Department by societies[[2]](#footnote-2); and
* sample 2: data on 1269 venues’ average GMP and turnover for January to June 2015.

The primary limitation of sample 1 is that the data contained within it does not come from one fixed time period. It is based on information supplied to the Department, primarily for the 2014 financial year, though two of the societies provided information from the 2013 financial year. This limitation is mitigated somewhat by the sample 2 dataset which provides data for the entire Class 4 venue population.

#### Tensions between policy objectives

The primary policy objective is to simplify compliance and reduce administrative time and cost for societies and venues, thereby maximising returns to the community – without growing gambling and increasing harm.

The Department acknowledges that there is an inherent tension between the objectives of maximising returns and not increasing problem gambling because in isolation from each other they may have opposing outcomes.

#### Preferences from consultation

From September 2015 to March 2016, the Department convened an external sector working group to co-design the new venue payment regime.

Industry members of the working group preferred that the new regime be commission-based, calculated as a percentage of turnover. The problem gambling service provider members of the working group were opposed to any commission-based scheme without the introduction of additional harm minimisation commitments.

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## Executive summary

1. Gambling in New Zealand is regulated by the Gambling Act 2003. Class 4 gambling is gambling on gaming machines (‘pokies’) in pubs, hotels and clubs. The current regime for paying non-club venues for hosting gaming machines and the costs associated with meeting regulatory obligations will no longer be supported by law from 21 October 2016.
2. Non-club venues currently receive a capped payment for hosting machines that reimburses them for the ‘actual, reasonable and necessary’ (ARN) costs of operating class 4 gambling. These costs are limited depending on the number of machines and the number of hours that the venue operates each week.
3. In consultation with the class 4 gambling sector, the Department recommends that venues be paid on the basis of a commission, calculated on a percentage of turnover.
4. The total funding pool for venue payments remains the same as the status quo, i.e 16 per cent of gaming machine proceeds (GMP)[[3]](#footnote-3), excluding GST.
5. Analysis of actual data shows that a commission rate of 1.28 per cent is the approximate equivalent of 16 per cent GMP, excluding GST. Under the new regime, each venue will be paid up to 1.28 per cent of weekly turnover. Under the regulation making powers, total payments may not exceed 16 per cent of GMP (excluding GST) on an annual basis per venue.
6. The Department, in conjunction with the working group, will prepare guidance material for the sector on how to manage venue payments to avoid breaching the 16 per cent GMP annual limit. These will be communicated to the sector prior to enactment.
7. Some venue operators will receive more money under the new regime compared to the status quo, and some will receive less. Overall, modelling indicates that 55 per cent of venues will be better off.
8. Any losses may be offset by savings achieved through reduced operating hours and staff costs, the decommissioning of redundant machines, and reduced administration and compliance costs.
9. The new regime will significantly simplify compliance, reducing administrative time and costs for societies and venues, thereby maximising returns to the community. The Department, as regulator of the gambling sector, will also have significantly reduced monitoring and auditing costs.
10. Problem gambling is not expected to increase with the new regime. However, the recommended regime will affect the behaviour of venue operators and their staff. There is a potential risk that it may incentivise venue operators to diminish or ignore their responsibilities with respect to the prevention and minimisation of gambling harm. Conversely, venues will be adequately funded to provide sufficient resources to increase supervision and better manage the gaming environment compared to the status quo which limits payments for undertaking harm minimisation tasks.
11. The Department will monitor the new regime for any impacts on problem gambling by accessing Ministry of Health information about the number of class 4 gamblers who seek and access problem gambling services.
12. The proposed regime has been developed through a collaborative process and will be ‘championed’ by members of the class 4 working group (e.g. the Hospitality Association and societies involved in design of the preferred option), which may significantly assist the wider sector to easily transition to the new regime.
13. The development of the new regime has been undertaken at the same time as Cabinet has been considering a broader review of the class 4 gambling sector to determine if it remains fit-for-purpose. A new regime will be successful if it contributes to the outcome sought for the wider class 4 gambling reform, which is for class 4 gambling to have a low cost, risk based regulatory framework that ensures sustainable fund-raising for the community.

## Status quo and problem definition

### Background

1. Gambling in New Zealand is a regulated by the Gambling Act 2003 (Gambling Act). The main purposes of the Gambling Act include:
   1. ensuring that money from gambling benefits the community;
   2. controlling the growth of gambling; and
   3. preventing and minimising harm caused by gambling.
2. There are six classes of gambling described in the Gambling Act. Class 4 gambling is gambling involving the operation of gaming machines, also known as ‘pokies’.
3. This Regulatory Impact Statement (RIS) provides an analysis of options for how class 4 commercial gambling venues could be paid for the costs of hosting gaming machines in their premises compared to the status quo. Not-for-profit corporate societies are responsible for paying venues for these costs.
4. The analysis excludes class 4 gambling in non-commercial clubs (e.g. RSAs, Cosmopolitan Clubs, Workingman Clubs and other sports clubs) because they operate gaming machines in their own premises and therefore do not pay venue costs to an external party.

#### Size of the class 4 sector

1. As at 31 December 2015, there were 966 (non-club) venues (hosting a total of 13,016 gaming machines) and 38 corporate societies in operation. Venues are categorised from A+ to E based on their annual **gaming machine proceeds (GMP)** – which is defined in this RIS as turnover less prizes and exclusive of GST. The categories are shown in Table 1 below.

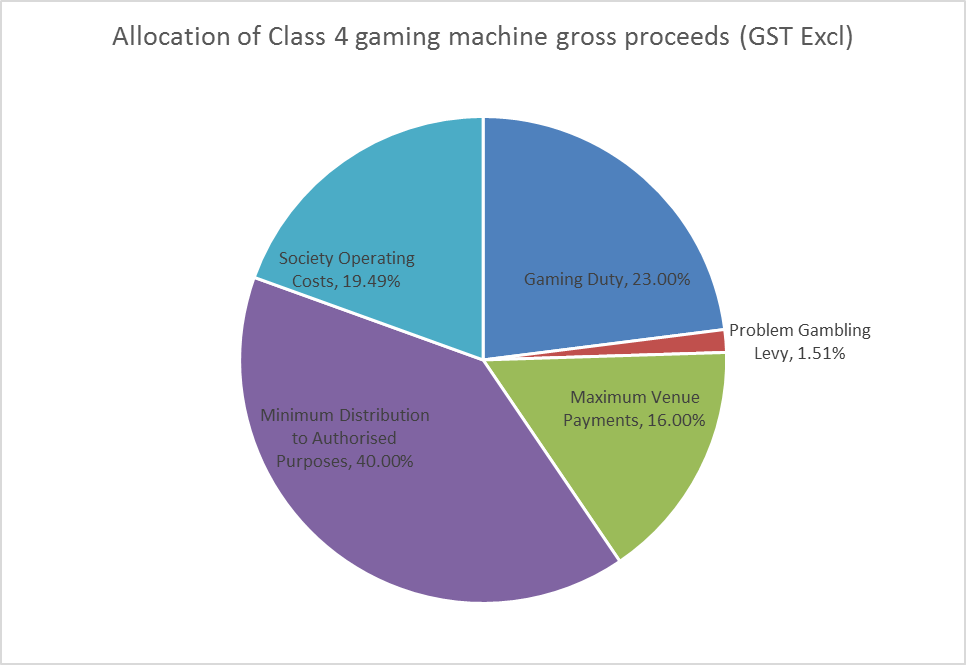
***Table 1: Categorisation of venues based on GMP***

|  |  |  |
| --- | --- | --- |
| **Category** | **Annual GMP** | |
| A+ | More than | $2,000,000 |
| A | From $1,000,000 to | $1,999,999 |
| B | From $500,001 to | $999,999 |
| C | From $200,001 to | $500,000 |
| D | Less than | $200,000 |
| E | Less than | $100,000 |

#### Allocation of class 4 gaming machine proceeds

1. Total class 4 gaming machine proceeds are allocated as illustrated in Figure 1. The total funding pool available for payments across all venues in the new regime will remain unchanged (i.e 16 per cent of GST exclusive GMP), which means that there is no impact on the current allocation model.

***Figure 1: Allocation of class 4 gaming machine proceeds***



#### Wider class 4 gambling reforms

1. The analysis has been undertaken at the same time as Cabinet has been considering a broader review of the class 4 gambling sector to determine if it remains fit-for-purpose. The outcome sought is for class 4 gambling to have a low cost, risk based regulatory framework that ensures sustainable fund-raising for the community. This could lead to reviewing other ways to reduce venue costs and result in further changes in the sector in the future.

### Status quo: the current venue payments regime

1. Venues that host gaming machines get paid a weekly venue payment to recompense them for their ‘actual, reasonable and necessary’ costs, up to certain limits. These costs and limits are described in Table 2.

***Table 2: Cost limits for venue payments under the current regime***

Ref: *New Zealand Gazette,* 17/7/2008, No.114, p.3027.

|  |  |  |
| --- | --- | --- |
| **Limit** | **Description** | **Explanation** |
| Limit A | Hourly Operating Costs (capped at $0.60 per gaming machine per hour) | These cover the operation of gaming machines while they are available for use by the public. The main components are labour, the performance of common gaming tasks, and electricity. |
| Limit B | Weekly Operating Costs (capped at $75.00 per machine per week) | These include costs that typically occur outside operational hours. For example, cash reconciliations and balancing. Other costs covered are rental for use of venue floor space, insurance and interest. |
| Limit C | Venue Operating Costs (capped at $800.00 per week) | These include costs not otherwise provided for. For example, security, labour costs such as banking of GMP, cleaning, liaison with the society and the Department, training etc. |
| Limit D | Overall venue costs for each individual society | Capped at 16% of GMP, excluding GST, in any 12 month period. |

1. The rationale for the current payment is that venues should only be paid for costs that are ‘actual, reasonable and necessary’ in order to support the purpose of the Gambling Act to ensure that gambling money benefits the community.
2. This model is generally sufficient for low to medium revenue venues. However, some higher turnover venues are currently paid less than is reasonable because these payments are constrained by Limit A (e.g. staffing) and Limit C (e.g. rent/insurance costs in central city areas). Cost recovery shortfalls are met by venues.
3. If societies fail to comply with Limit D their operating licence may be cancelled, suspended or not renewed (the Department is able to use its discretion in these circumstances).
4. Table 3 shows the average weekly venue payment amount under the status quo.

***Table 3: Average weekly venue payment under the status quo***

|  |  |
| --- | --- |
| **Venue category** | **Average weekly venue payment under status quo** |
| **E** | $222 |
| **D** | $624 |
| **C** | $1,449 |
| **B** | $2,414 |
| **A** | $2,925 |
| **A+** | $2,957 |

#### Calculating costs: venue cost schedules

1. Societies and venues must generate a ‘venue cost schedule’ which details the costs associated with the operation of class 4 gambling within a particular venue. Venue payments must not exceed those agreed to in the schedule (but may be less).
2. New venue cost schedules must be submitted to the Department at least every three years, whenever a venue enters an agreement with a different society, or any of the costs on the schedule change.

### Problem definition

#### Root cause of the problem

1. The National Party’s 2011 pre-election Policy Statement referred to reviewing the Gambling Act 2003, particularly class 4 gambling, and considering change if strong evidence emerges that the Act is not working as intended.
2. As a result of these commitments, the Minister of Internal Affairs set priorities for improving class 4 gambling – including ‘reducing operational, regulatory and compliance costs for the sector and the government’. Simplifying compliance was considered important because reduced compliance costs would maximise the amount of money available to be returned to the community.
3. On 16 September 2013, Cabinet agreed to release a public consultation document with options for regulatory reform of the class 4 sector [CAB Min (13) 32/8 refers]. One of the issues covered was options to reduce compliance costs arising from venue payments.
4. On 16 April 2014, Cabinet agreed in principle to the development of a commission-based venue payment scheme [EGI Min (14) 7/16]. Section 30(b) of the Act originally excluded a commission-based approach to venue payments. However, under the Gambling Amendment Act 2015 (No 2), which was enacted on 21 October 2015, this has been replaced with a section that allows for commission payments or other types of payments to venue operators, so long as it is specified in the new regulations.
5. The changes brought in by the Gambling Amendment Act 2015 (No 2) means that the current regime for venue payments must be reviewed because it will no longer be supported by the law after 21 October 2016.

#### Problems with the status quo

1. As identified above, the current venue payments regime is complex to comply with, for both the sector and the regulator. Other problems with the current venue payments regime are that it:
   1. limits the ability of venues to fully resource and adequately undertake prevention and minimisation of gambling harm activities, as costs of these activities are limited under Limit A[[4]](#footnote-4);
   2. creates adversarial relationships between the regulator and the sector who are quick to litigate if venue cost schedules are disputed. This is expensive and resource intensive for both parties;
   3. creates inefficiencies by incentivising venues to maximise their operating hours (within liquor licencing constraints) and numbers of gaming machines, even if there are no players, to maximise their costs under Limits A, B and C;
   4. is financially out of date. Limits A, B and C have not been adjusted for inflation since 2004 (GST for Limit D was clarified in 2008) so that some venues may no longer be appropriately compensated for their current costs;
   5. potentially gives higher revenue venues ‘market power’ as societies seek to obtain and/or retain them (by providing them with excessive venue payments and venue enhancements), which may result in illegal competition for venues. The Department notes that venue churn has decreased in recent years suggesting that this is less of an issue than it once was; and
   6. allows societies to offset costs across their venue portfolio, whereby any cost savings can be used to top up payments to higher revenue venues and subsidise lower revenue venues (potentially propping up non-viable venues).

## Objectives

### Policy objectives

1. The primary policy objective is to simplify compliance and reduce administrative time and cost for societies and venues, thereby maximising returns to the community – without growing gambling and increasing harm.
2. There is an inherent tension between the objectives of maximising returns and not increasing problem gambling because in isolation from each other they have opposing outcomes i.e. as gambling opportunities reduce so does harm, but funds would equally reduce. This tension already exists for the sector under the status quo.
3. The Department considers that venue payments on their own are unlikely to alter the behaviour of gamblers at the venue as there is no outward change affecting gamblers. The key policy question is whether the new venue payments regime introduces an incentive for venue operators to diminish or ignore their responsibilities with respect to the prevention and minimisation of gambling harm.
4. The secondary policy objectives are to:
   1. ensure transparency about what is being paid to whom, and for what purpose;
   2. minimise unintended behaviours between societies and venue operators; and
   3. fairly recompense venue operators for their costs and the work that they do.

## Options and impact analysis

### Key decision points

1. The new regime could be designed in a number of ways. The key decision points involve determining:
   1. **Decision 1**: whether the new regime should be commission-based;
2. If the new regime is commission-based:
   1. **Decision 2**: how the commission should be calculated; and
   2. **Decision 3**: how the commission should be set or constrained.

#### Overview of options

1. Each decision point has a number of options. For Decision 1, five options were considered. These were:
   1. **Option 1**: the status quo—regulations would replicate the current system as closely as possible;
   2. **Option 2**: a commission-based regime—a proportion of money would be paid to the venue operator;
   3. **Option 3**: a fixed per gaming machine payment—a simple fee per gaming machine at a venue;
   4. **Option 4**: a combination of fee per gaming machine and commission—a flat dollar payment per machine plus a proportion payment; and
   5. **Option 5**: a formula that mimics the current costs and payments—a formula applying regression analysis could produce a line of ‘best fit’ replicating current payments.
2. For Decision 2, two options were considered. These were:
   1. **Option 6**: the commission could be calculated as a percentage of turnover (the total gross amount wagered by gamblers); and
   2. **Option 7**: the commission could be calculated as a percentage of GMP (the amount of money left over once prizes and jackpots have been paid out).
3. For Decision 3, three options were considered. These were:
   1. **Option 8**: the commission could be based on a flat percentage rate; or
   2. **Option 9**: tiered; or
   3. **Option 10**: capped.

#### Non-regulatory approaches to venue payments

1. Section 30 of the Gambling Amendment Act 2015 allows for a commission payment to be paid to a venue operator that complies with regulations made under section 371(1)(dd). Section 116 of the Gambling Amendment Act 2015 replaces the current ARN limits that are currently specified by Gazette notice 17/7/2008, No.114, p.3027. As noted this means that the current regime will no longer be supported by law after 21 October 2016 and will be revoked.
2. Regulations do not necessarily need to be made under s.371(1)(dd). Societies could be left to pay venues as they see fit after taxes, duties and returns to the community have been paid out.
3. However, a key premise of the new regime was that it there would be no significant increase overall in the total funding pool available for venue payments, i.e no more than current limit D (16 per cent of GMP, excluding GST). A non-legislative option would not be able to hold payments to this limit.
4. In the absence of the current venue costs *Gazette* notice or a regulation under s371(1)(dd), each venue agreement would need to have an itemised list of costs associated with the operation of class 4 gambling at the venue [amendment to s.69(1)(b) refers]. This would be even more complex and costly than the current regime.

#### Criteria

1. The following five criteria were used when assessing each option:
   1. **Criterion 1**: is the option simple to comply with, reducing administrative time and cost for societies and venues, thereby maximising funds that are available for the community?;
   2. **Criterion 2**: does the option introduce an incentive for venue operators to diminish or ignore their responsibilities with respect to prevention and minimisation of gambling harm?;
   3. **Criterion 3**: is the option transparent about what is being paid to whom and for what purpose?;
   4. **Criterion 4**: does the option minimise unintended behaviours between societies and venue operators?; and
   5. **Criterion 5**: does the option fairly recompense venue operators for their costs and the work that they do.

#### Data sets

1. The following two sample sets of venue payment data were used for the assessment of options:
   1. sample 1: data on 324 venues’ average GMP and venue payments supplied to the Department by societies from 2013 to late 2014; and
   2. sample 2: data on 1269 venues’ average GMP and turnover for January to June 2015.

#### Co-design of the preferred option

1. From September 2015 to March 2016 the Department convened a working group to co-design a new venue payments regime for class 4 gambling. The working group included participants from corporate societies, venue operators, and problem gambling service providers. The Department and the working group discussed each of the above decision points and options in detail. The following impact analysis includes the working group’s preference for each decision point and the Department’s comment.

### Impact analysis

#### Decision 1: commission-based or other system?

1. Four options were considered alongside a commission-based system. The following table (Table 4) describes how each of the options meets the assessment criteria.

***Table 4: Analysis of Decision 1 – should the new venue payments regime be commission based, or some other system?***

| **Criteria** | **Option 1:**  **Status quo** | **Option 2:**  **Commission** | **Option 3:**  **Fixed payment per gaming machine** | **Option 4:**  **Combination of a fixed fee plus commission** | **Option 5:**  **Formula that mimics current actual payments and costs** |
| --- | --- | --- | --- | --- | --- |
| **Is the option simple to comply with, reducing administrative time and cost for societies and venues, thereby maximising funds that are available for the community?** | No.  The status quo is based on operating hours and machines and not productivity/revenue. It imposes significant administration costs for venues, societies and the regulator. The greater the administrative cost, the less opportunity there is for efficiencies, which in turn reduces the funds available for the community. | Yes.  A commission-based system removes the requirement to calculate costs based on ARN limits and complete detailed venue cost schedules. This significantly reduces administration costs for societies meaning that more money can be freed up and used for community purposes.  However, the disestablishment of operating hours to underpin payments has the potential to reduce available funds through reducing gross proceeds generated. This may be offset by increased revenue in other venues.  Overall, total funds to the community are expected to remain the same. | No.  There would be no incentive to operate machines to raise money for the community. It incentivises inefficient utilisation of gaming machines assets. | No.  But it would depend on how the fixed fee portion of the payment was set. If the resulting payment was inadequate to compensate venues for the costs, operating hours would reduce and gross profits and funds raised would fall. | No.  Productivity would be capped at what venues receive now. Venues would not open once the payment reached the cap and GMP would not be raised beyond this point. Proceeds to the community would be lost. |
| **Does the option introduce an incentive for venue operators to diminish or ignore their responsibilities with respect to prevention and minimisation of gambling harm?** | Yes.  Harm minimisation is treated as a ‘part-time task’ because no more than 2% of labour costs are permitted to be reimbursed under the ARN limits. | Potentially.  Problem gambling is not expected to increase with the new regime. However, the recommended regime will affect the behaviour of venue operators and their staff.  There is a potential risk that it may incentivise venue operators to diminish or ignore their responsibilities with respect to the prevention and minimisation of gambling harm (because the greater the turnover the more they get paid; staff may turn a ‘blind eye’ on problem gamblers to maximise turnover).  Conversely, venues will be adequately funded to provide sufficient resources to increase supervision and better manage the gaming environment compared to the status quo which limits payments for undertaking harm minimisation tasks. | No.  More machines do not necessarily mean more problem gambling.  However, being reimbursed on machine numbers does not explicitly incentivise investment in the prevention and minimisation of gambling harm. | No.  The same arguments apply as the commission-based regime.  Any moderation of this depends on how the fixed fee portion of the payment was to be calculated. | Yes.  The current system provides little financial resourcing for harm minimisation. Mimicking the same resourcing would produce the same result as the status quo. |
| **Is the option transparent about what is being paid to whom and for what purpose?** | No.  Continual adjustments are required to ensure society costs do not exceed the Gazetted Limits. | Yes.  All venues would be paid on the same transparent basis. | Partially.  Yes, because all venues would be paid the same rate per machine, but no because this does not reflect the different costs to run machines across different venues. | No.  The fixed fee component would have to be calculated and claimed individually. | Yes.  Use of a standardised formula is a transparent approach. |
| **Does the option minimise unintended behaviours between societies and venue operators?** | No.  The complexity of the status quo makes it difficult for an operator to determine what a legitimate offer of payment is.  Societies may illegally compete for venues. | Yes.  It is easily understood with no room for misinterpretation.  A level playing field removes competition for venues because the issue of appropriate payment is resolved. | No.  There is no incentive to raise funds for the community. It incentivises the presence of machines in venues. Venues may move if societies seek to take machines out of venues. | No.  But it depends on how the fixed fee component was calculated. The complexity could lead to competitive behaviour and alternative interpretations of the payment calculation. | Unable to determine. |
| **Does the option fairly recompense venue operators for their costs and they work that they do?** | No.  The status quo uses outdated upper limits on payments and uses marginal cost recovery instead of actual costs. | Yes.  A commission-based system provides fair compensation for effort and productivity. | No.  The payment would be unrelated to actual costs incurred | Unknown.  It would depend on how the fixed fee component was calculated. | No. |

##### Working group preference

1. Industry members of the sector working group strongly favour a commission-based regime because they consider it:

* to be the most simple and accurate way of fairly compensating venue operators for hosting gaming machines and the work required to meet regulatory obligations;
* to be the most cost effective for the sector and the regulator, and
* has the fewest opportunities for abuse of payments/claims.

1. However, the problem gambling service providers within the working group were strongly opposed to any commission-based payment scheme because they considered:

* it gives venues opportunities, should they wish, to maximise returns for their economic advantage, fundamentally changing the focus from raising money for community purposes and disincentivising good host responsibility; and
* host responsibility could become a tick box exercise to meet minimum statutory requirements in an environment where the prevention and minimisation of gambling harm practices are already less than satisfactory (although practices do vary across the sector).

##### Department comment

1. The primary policy objective is to simplify compliance and reduce administrative time and cost for societies and venues, thereby maximising returns to the community – without growing gambling and increasing harm.
2. A commission-based regime is significantly simpler and easier to comply with than the status quo. The performance of venues is key to the effectiveness of the gambling system and enabling fair and transparent compensation for venues is of critical importance. A commission-based system moves the policy settings from input control to an outcomes focus and recognises that venue operators are in the best position to ensure their business and regulatory obligations are met.
3. Nonetheless, the Department acknowledges that under a commission-based regime, venues may be incentivised to maximise income relative to costs and may therefore be incentivised to not intervene when problem gambling is suspected or occurring.
4. Counter-balancing this is the assumption that if venues are adequately recompensed for costs, they will have sufficient resources to increase supervision and management of the gaming environment and therefore become more effective in minimising harm.
5. How venue operators will respond to the new regime is difficult to predict in advance. The new payments regime is being introduced at the same time as other changes are taking place across the sector, including freezing the minimal rate of return at 40 per cent, wider class 4 reform, and the introduction of enhancements to the harm minimisation and prevention provisions of the Gambling Act; all of which may have an impact on how venues respond to a commission-based approach.
6. The Department will monitor the new regime for its impact on problem gambling.

#### Decision 2: how could the commission be calculated?

1. The commission could be calculated one of two ways; either as a percentage of turnover or as a percentage of GMP. Table 5 describes how these options meet the assessment criteria.

***Table 5: Analysis of Decision 2 - calculation methods for a commission-based regime***

| **Criteria** | **Option 6:**  **Turnover** | **Option 7:**  **GMP** |
| --- | --- | --- |
| **Is the option simple to comply with, reducing administrative time and cost for societies and venues, thereby maximising funds that are available for the community?** | Yes.  A percentage of turnover is a simple calculation. Reduced administration costs frees up more money that is available for community purposes. | No.  It is not simple because GMP is determined by the inherent volatility of the gaining machines and the RTP setting. As a result there is no reliable link between GMP and a venue operators costs.  In addition, the volatility of GMP can occasionally mean venues incur negative payments. This may demotivate venues to host machines, especially smaller, rural sites. |
| **Does the option introduce an incentive for venue operators to diminish or ignore their responsibilities with respect to prevention and minimisation of gambling harm?** | No.  There is an assumption that the volume of transactions increases harm, but this is not necessarily the case. Busy venues with high turnover may have more customers but the average bet per customer is lower.  Adequate payments permit more effective resourcing of the prevention and minimisation of gambling harm. | Yes.  The inconsistent nature of funding that results from using GMP may frustrate venues from employing additional resources to manage and monitor their gaming environments. |
| **Is the option transparent about what is being paid to whom and for what purpose?** | Yes.  RTP percentages can be manipulated upwards to increase turnover but because the majority of venues operate at the high end of RTPs, the effect on payments is marginal. | No.  RTP percentages can be manipulated downwards to increase GMP. The effect on payments can be significant. |
| **Does the option minimise unintended behaviours between societies and venue operators?** | Yes.  It manages competition and so does not disadvantage low turnover venues. There is minimal motivation to change RTP percentages. | No.  It could incentivise venues to lower RTP percentages and jackpot contributions to increase GMP. This could result in competitive behaviour and introduce an inconsistent payment structure. |
| **Does the option fairly recompense venue operators for their costs and the work that they do?** | Yes.  Turnover is the most reliable indicator of the effort and actual costs expended by a venue. | Yes.  As a commission-based system it does, but not as reliably as the turnover based method. |

##### Working group preference

1. The working group’s preference is for the commission to be based on a percentage of turnover because:

* it is significantly less volatile than a calculation based on GMP;
* it suits smaller, provincial venues because it creates an even playing field[[5]](#footnote-5); and
* return to player (RTP) percentages are less likely to be manipulated in order to increase weekly payments[[6]](#footnote-6).

1. The Department and the working group considered what the percentage of turnover should be. Analysis of data sets over the previous five years shows that 1.28 per cent of turnover is currently the equivalent 16 per cent GMP excluding GST, noting they are not precisely interchangeable.

##### Department comment

1. The Department notes that a turnover-based calculation, whilst generally meeting the primary policy objective, does introduce some compliance issues.
2. Section 372(1)(dd) of the Gambling Act 2003 prescribes the payments that corporate societies may make to venue operators. This section states that payments may not exceed a specified percentage of ‘turnover (exclusive of prizes and GST)’ [[7]](#footnote-7). However, ‘turnover exclusive of prizes’ is the definition of gaming machine profits (section 104(5) of the Gambling Act 2003 refers).
3. As a result, using a percentage of turnover calculation method can only be used if an upper limit of gaming machine profits is also imposed. For the total funding pool for venue payments to remain the same, this upper limit is set at 16 per cent of GMP, excluding GST.
4. The key implementation issue then becomes ensuring that venue payments are kept within the annual limit at each society’s financial year balance date. The Department will audit societies at the end of their financial year. Any societies that have breached the limit at the end of their financial year for each of their venues, or part thereof (in the case of a venue switching between societies part way through the year, for example) will be subject to the Department’s current compliance and enforcement approach (see Implementation for more detail).
5. The working group will champion the proposed regime to the wider sector, which will significantly assist with the ease of implementation, e.g. the Hospitality Industry Association (who has been on the working group) will help member venues to transition to the new regime.

#### Decision 3: should the commission be based on a flat rate, tiered or capped?

1. The commission could be based on one of three ways:
   1. as a flat percentage rate; or
   2. tiered; or
   3. capped (noting that this option was analysed irrespective of the wording of the regulation making power which prescribes an upper limit).
2. Table 6 describes how these options meet the assessment criteria.

***Table 6: Analysis of Decision 3 - comparison of a flat rate, tiered or capped commission-based regime for venue payments***

| **Criteria** | **Option 8:**  **Flat rate** | **Option 9:**  **Tiered** | **Option 10:**  **Capped** |
| --- | --- | --- | --- |
| **Is the option simple to comply with, reducing administrative time and cost for societies and venues, thereby maximising funds that are available for the community?** | Yes.  It provides a simple and linear compensation for effort and costs. | No.  The introduction of different rates of payment for effort and costs that remain the same disincentivises raising funds. | No.  A commission removing the requirement to fulfil a certain number of operating hours will see venues cease trading when the cap is met, with significant loss in gross proceeds. |
| **Does the option introduce an incentive for venue operators to diminish or ignore their responsibilities with respect to prevention and minimisation of gambling harm?** | No.  Based on the assumption that receiving adequate venue payments equates to better resourcing of harm minimisation, a flat rate of commission provides for adequate prevention and minimisation of gambling harm through all ranges of GMP generated.  However, if venues do not invest in a duty of care, less (or the same) could be spent on the prevention and minimisation of gambling harm because ‘ignoring’ problem gambling may increase turnover and therefore the commission. Whether this will increase problem gambling over the status quo is uncertain. | Yes.  To compensate for reduced venue payments above the tier cut off point, affected venues could reduce their focus on the prevention and minimisation of gambling harm through the upper ranges of GMP generated. | Yes.  To compensate for reduced venue payments above the cap, affected venues could reduce their focus on the prevention and minimisation of gambling harm through the upper ranges of GMP generated. |
| **Is the option transparent about what is being paid to whom and for what purpose?** | Yes.  It provides an even playing field for societies and reduces market power of venues because the same rate must be paid to each venue regardless of the society. | No.  It could provide market power to mid-level GMP venues (ie those closest to just under the tier cut off points). | No.  It could provide market power to mid-level GMP venues (ie those closest to just under the cap cut off point). |
| **Does the option minimise unintended behaviours between societies and venue operators?** | Yes.  All venues are treated equally. | No.  Venues may cease trading when the tier cut off point is met because they will not be paid adequately for the effort and costs past this point, thereby generating fewer funds. | No.  Venues may cease trading when the cap is met because they will not be paid adequately for the effort and costs past this point, thereby generating fewer funds. |
| **Does the option fairly recompense venue operators for their costs and the work that they do?** | Yes.  All venues will be more fairly recompensed for their costs. | No.  Higher revenue venues may be unfairly disadvantaged. Fixed costs above the tier cut off point remain the same. | No.  Higher revenue venues may be unfairly disadvantaged. Fixed costs remain above the cap the same. |

##### Working group preference

1. The working group prefers the commission be calculated using a flat percentage rate because it is equitable, simple and cost effective to administer, and it maximises the funds available for the community.
2. Data provided by the working group shows that for one large society, 55 per cent of their venues will be better off under a commission-based on turnover regime, compared to the status quo (as shown in Table 7).

***Table 7: Impact of new venue payments regime (using 1.28% of turnover)***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Category** | **Better** | **Worse** | **Total** | **% Worse Off** | **% Better Off** |
| A+ | 4 | 0 | 4 | 0.0% | 100.0% |
| A | 28 | 1 | 29 | 3.4% | 96.6% |
| B | 15 | 12 | 27 | 44.4% | 55.6% |
| C | 16 | 21 | 37 | 56.8% | 43.2% |
| D | 8 | 11 | 19 | 57.9% | 42.1% |
| E | 6 | 18 | 24 | 75.0% | 25.0% |
| **Total** | **77** | **63** | **140** | **45.0%** | **55.0%** |

1. For those venues expected to be worse off, they may be able to offset lower weekly payments by rationalising their operating hours to maximise profitability, as described in the venue examples below. Both examples assume that hours could be reduced at non-peak times, typically the beginning or end of the day, with minimum impact on turnover and GMP.

**Example A**

Under the new regime, venue A will receive $17,000 per annum less. Their operation is currently open seven days a week for 98 hours as per their venue cost schedule (some days open to 3am). This venue may be able to reduce hours (and therefore costs) to offset the loss in venue payment received assuming no change in their gaming turnover. Assuming an hourly cost of $32.60 (made up from labour cost of person doing most of gaming tasks on VCS and electricity) this would require a reduction of approximately 10 hours a week to offset their loss in venue payments (saving $16,952 p.a).

**Example B**

Venue B is a very seasonal rural venue with 18 machines. Their current operating hours are 89.5 per week. Under the new regime they will lose $27,000 per annum. Options for this venue would be to reduce to 12 machines creating an electricity savings $31 per week and using the Duty Manager pay rate at $18.54/hr, a reduction of approximately 26 hours per week would see this venue save $26,678 p.a. thereby recouping losses.

1. Societies will also make savings based on reductions in machine numbers (comprising servicing, monitoring, conversion, interest and depreciation costs) and reductions associated with the simplification of monitoring procedures, audit requirements and other compliance matters. The working group estimated these savings as $2.96m and $675,000 respectively.

##### Department comment

1. A flat commission rate is simple, rewards venues for the work that they do, and creates the best incentive to maximise funds available to the community.
2. Table 8 shows the average potential change in weekly venue payments for each of the options using sample 1 data provided to the Department. Based on modelling of this data, A+ venues could potentiually receive $172,000 p.a. more than they do now and category A venues could potentially receive $29,000 more p.a. On average, category B-E venues could receive $4,000 - $28,000 less p.a. than they do now.

***Table 8: Change in weekly payment amount under each option – flat rate, tiered or capped, compared to the status quo***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Venue category** | **Weekly venue payment under status quo** | **Weekly venue payment under flat rate commission** | **Weekly venue payment under tiered commission** | **Weekly venue payment under a capped commission** |
| **E** | $222 | $142 | $142 | $142 |
| **D** | $624 | $402 | $402 | $402 |
| **C** | $1,449 | $895 | $895 | $895 |
| **B** | $2,414 | $1,987 | $1,987 | $1,987 |
| **A** | $2,925 | $3,491 | $3,276 | $3,258 |
| **A+** | $2,957 | $6,266 | $4,637 | $3,600 |

## Consultation

1. Two significant external consultation processes were undertaken: a public consultation round; and use of a dedicated stakeholder focus group. The results of each are outlined as follows.

### 2013/14 public consultation

1. Public consultation on options for reform of the venue payments system occurred in late 2013 (the consultation also included other class 4 reform proposals). The options covered were:

* the status quo;
* a per machine payment;
* a flat commission rate (for example, 16 per cent of GMP per venue); and
* a tiered commission system—the Department presented a six-tier system based on cost data that best matched the overall trend for expenses as a percentage of GMP. The tiers were set on a diminishing basis so that as GMP increased to a limit, the percentage payment decreased.

1. In total, the Department received 114 submissions during the 2013/14 consultation period; 84 of these commented on options for venue payments. Submissions were received from gambling societies, venues, community groups, councils, problem gambling support groups, the racing group and the general public, as shown in Figure 2 below.

***Figure 2: Submitters by type***



1. Submitters supported the various options as shown in Figure 3.

***Figure 3: Submitter support for different venue payment options***

1. Eighteen per cent of submitters supported a flat rate commission payment while 55 per cent supported some form of tiered commission scheme. Sixty seven per cent of venues and 70 per cent of gambling societies supported the introduction of some kind of tiered commission scheme, but opposed the Department’s option. The main concern with the Department’s option was that the commission rate for low turnover venues was too high and unsustainable.
2. Of those societies who supported a tiered scheme, more than half were opposed to a cap on venue payments. Also, 69 per cent supported the commission payment representing a cap on payments, with the actual payment below this amount being discretionary rather than mandatory.

### Working Group

1. In September 2015 the Department convened a working group to co-design a new venue payment regime for class 4 gambling. The advantage of a collaborative process was:

* venues and societies could bring their ‘real world’ operational and commercial perspectives into the process, which meant that that implementation issues could be worked through from the very start of the process. The Department has been criticised in the past for not understanding how reforms to the class 4 sector will affect the sector in practice;
* the working group brought valuable evidence and information into the process that the Department otherwise would not have had access to (for example, information on how different options would affect a society’s range of venues); and
* involving stakeholders in the policy design has meant they both understand the preferred option and are willing to assist in effective implementation (e.g. develop of FAQs and good practice guides).

1. The working group included members from societies, venue operators and problem gambling service providers (Salvation Army, Problem Gambling Foundation, Hapai).
2. The working group met four times between September and December 2015. Two further meetings were held with a subset of this group in February and March 2016 to work through some detailed implementation issues that did not require the whole group to be reconvened.
3. Industry members of the working group unanimously agreed that a new payments regime be:

* commission-based;
* based on percentage of turnover (set at 1.28 per cent as this is closest to 16 per cent of GMP);
* based on a flat rate (i.e not capped or tiered); and
* mandatory (so that societies are required to pay their venues the amount specified, rather than have the discretion to pay them less)[[8]](#footnote-8).

1. It was also suggested that venue payment commission rates should be reviewed every three years and the movement in the CPI should be taken into account.
2. The problem gambling service providers were opposed to a commission-based payment scheme without real and effective measures to mitigate the potential impact of such a scheme because they considered:

* it gives venues opportunities, should they wish, to maximise returns for their economic advantage, fundamentally changing the focus from raising money for community purposes and disincentivising good host responsibility; and
* host responsibility could become a tick box exercise to meet minimum statutory requirements in an environment where harm minimisation practices are already less than satisfactory (although practices do vary across the sector).

1. Problem gambling service providers specifically recommended that if a commission-based system was introduced a fixed proportion of each commission payment be ring-fenced for harm prevention and minimisation activities as a minimum and be conducted by appropriately qualified people.
2. The Department considered the problem gambling service providers’ recommendation to have the following benefits and disadvantages (see Table 9). On balance, the Department does not support the recommendation.

***Table 9: Department consideration of the problem gambling service provider recommendation of a ring fenced payment for harm minimisation***

|  |  |
| --- | --- |
| Benefits | Disadvantages |
| * Provides an incentive for venue operators to carry out their harm-related activities * Harm minimisation activity would be able to be increased in proportion to the level of gambling spend occurring at a venue | * A ‘ring fencing’ approach re-introduces a focus on inputs instead of outcomes * It reintroduces a prescriptive /enforcement focused approach * It would be difficult to monitor and enforce because the regulator would need to implement processes and systems to determine if the required proportion of funds were being spent on harm minimisation activities and not other tasks * Fiscal costs to the Department would be significant because of the complexity of monitoring and enforcement |

1. As agreed by all working group members, other harm minimisation commitments could include:

* the Department’s staffing resource could be shifted from approving ARN and venue payments (which would no longer be required under a commission-based payment) and transferred to harm prevention work;
* the development of best practice guidelines on the percentage of funds/staffing that venues should commit to harm minimisation (if a mandated percentage of funds for this purpose is not progressed as per the recommendation proposed by the problem gambling service providers, as above);
* when determining which societies are eligible for a three-year licence, the extent to which harm minimisation features in their venues could be one of the criteria for being considered a good candidate for this high trust/low compliance approach;
* a ‘three strikes and you are out’ policy be adopted for venue operators that do not fulfil their harm prevention and minimisation obligations; and
* more interaction between societies, venue operators and problem gambling services providers (perhaps regular quarterly meetings of the same focus group members).

1. These operational matters are being considered by the Department as part of a review of its operating model.

### Consultation with Crown agencies

1. The Treasury, Ministries of Health, Business, Innovation and Employment, Ministries for Pacific Peoples, Women, and Culture and Heritage, Te Puni Kōkiri, and Sport New Zealand, have been consulted on this RIS. The Department of the Prime Minister and Cabinet has been informed.

## Conclusion

1. This RIS provides an analysis of options for how class 4 commercial gambling venues could be paid for the costs of hosting gaming machines in their premises compared to the status quo.
2. The analysis has been undertaken at the same time as Cabinet has been considering a broader review of the class 4 gambling sector to determine if it remains fit-for-purpose. A new regime will be successful if it contributes to the outcome sought for the wider class 4 gambling reform, which is for class 4 gambling to have a low cost, risk based regulatory framework that ensures sustainable fund-raising for the community.
3. The Department recommends that the new venue payments regime be:
   1. commission-based; and
   2. calculated up to 1.28 per cent of weekly turnover, not exceeding 16 per cent of GMP excluding GST, on an annual basis, per venue.
4. This option is the simplest to comply with, which will significantly reduce the costs associated with the status quo. This option will also ensure that returns to the community will be maximised.
5. Nevertheless, the new commission-based regime will affect the behaviour of venue operators and their staff. There is a risk that it may incentivise venue operators to diminish or ignore their responsibilities with respect to the prevention and minimisation of gambling harm. Conversely venues will be adequately funded to provide sufficient resources to increase supervision and better manage the gaming environment because payments for undertaking harm minimisation will no longer be limited to a finite number of tasks.
6. The Department will continue to monitor the sector’s prevention and minimisation of gambling harm regulatory obligations (through venue audits, mystery shopper exercises and other activities) and keep a watching brief on the Ministry of Health’s problem gambling statistics. Any unintended consequences of the new regime will be reported. If necessary, amendments to the venue payments regime (via regulations) may be made to mitigate these.

## Implementation

### Implementation issues

#### Accuracy of payments

1. Payment amounts will be calculated on a weekly basis; however societies may make payments weekly, fortnightly, monthly or some other period as determined between the society and the venue. The Department provides weekly Electronic Monitoring System (EMS) reports to societies which set out the turnover for each venue.
2. A key feature of the new regime is ensuring that venue payments are kept within the 16 per cent GMP annual limit at each society’s financial year balance date (noting that these vary across societies). Processes will need to be in place to deal with part year payments in situations such as:
   1. where a venue switches society part way through a financial year;
   2. where a venue’s licence is suspended or cancelled part way through a financial year; or
   3. where a venue or a society ceases trading/closes part way through a financial year.
3. The Department, in conjunction with the working group, will prepare guidance materials for the sector on how to manage venue payments to avoid breaching the 16 per cent GMP annual limit, including those societies whose initial balance date falls before a full year’s payments have been made.
4. Any venues that do breach the limit at the end of their financial year or part thereof will be subject to the Department’s current compliance and enforcement approach. The Department will assess any breach situation on a case by case basis and take appropriate action depending on the individual circumstances.

#### Rollover of venue agreements

1. On the day of commencement of the new regulations, all venue agreements that are in force are deemed to be amended so as to make that agreement consistent with the new venue payments regime (clause 3 of Schedule 1AA). This means it is not necessary for societies to amend their venue agreements as a part of the transition. Should societies choose to vary or amend their agreements, they must notify the Department under section 69(1)(b).
2. However, given that most societies are likely to vary their venue agreements and considering the volume of variations and the resources required, the Department considers that it would be an acceptable course to simply approve the agreements as they arise in the course of licensing renewals and not require all variations to be resubmitted. There is little risk in this approach as the requirements of the regulations will override any contract to the contrary between societies and venues, so any payments contrary to the regulations could be dealt with through normal enforcement mechanisms.
3. The Department considers that the new venue payments regime also provides an opportunity to investigate standardising venue agreements, which the working group supports.

#### Development, enhancement and maintenance (DEM) costs

1. Under the new venue payments regime:

* all DEM costs will remain as venue costs;
* societies will no longer pay for capital expenses in venues;
* all capital expenditure incurred at the venue will be covered by venues (with the exception of air-conditioning units and other capital items already accepted by the Department as legitimate society costs);
* venues could decide whether they treat maintenance as operating expenses (netted against income through tax requirements) or capital expenditure (with depreciation claimed); and
* current repayments from venues to societies for historical capital costs (which societies had paid upfront and recouped through weekly payments) will cease immediately with the new regime. These historical costs will need to be fully reimbursed before the new regulations take effect. The sector working group confirmed that very few, if any, societies would have any outstanding DEM costs at the time of implementation.

1. There may be some venues that have purchased air conditioning units that will be unable to be fully reimbursed under Limit C prior to enactment. The Department will advise how DEM is to be reconciled prior to the implementation of the new regime.
2. The terms of a venue agreement may need to change to specify a societies fit-out standards for the gaming room, since DEM costs would no longer apply.

### Implementation timeframe

1. Regulations will be enacted on 3 October 2016, to align with the majority of societies’ annual balance dates. This will require an Order in Council to bring the outstanding venue payment provisions in the Gambling Amendment Act (No 2) 2015 into effect.

#### Key Steps

1. Table 10 outlines an indicative implementation timeframe.

***Table 10: Indicative implementation timeframe***

|  |  |
| --- | --- |
| **Action** | **Due date** |
| Considered by EGI | 4 May 2016 |
| Cabinet | 9 May 2016 |
| Issue drafting instructions | 10 May 2016 |
| Circulate exposure draft, if permitted | May/June 2016 |
| Advise sector on:   * the process for receiving amended venue agreements * the process for reconciling outstanding DEM costs * systems and processes for managing the annualised limit, including part years. | July / August / September 2016 |
| Considered by LEG | 10 August 2016 |
| Cabinet | 15 August 2016 |
| Signed by Governor General; 28 day rule | 15 August 2016 |
| Enactment date | 3 October 2016 |
| Expiry of current regime | 21 October 2016 |

## Monitoring, evaluation and review

#### Performance indicators

1. Primarily, the new venue payments regime will be successful if:

* it is simple to comply with, reducing administrative time and cost for societies and venues (**returns to the community are maximised**); and
* venue operators do not diminish or ignore their prevention and minimisation of gambling harm responsibilities (**problem gambling does not increase**).

1. The new regime will also be successful if it contributes to the outcome sought for the wider class 4 gambling reform, which is for class 4 gambling to have a low cost, risk based regulatory framework that ensures sustainable fund-raising for the community.

#### How performance indicator data will be collected

1. The Department monitors returns to the community using Gaming Machine Account Summary Returns information that is submitted with societies’ applications for licence renewal. Societies must return a minimum of 40 per cent of net proceeds to the community, but they may return more. The Department will monitor any changes in return rates at licence renewal.
2. The Department is able to access Ministry of Health information about the number of class 4 gamblers who seek and access problem gambling services. This will be reviewed on an annual basis, or as the Ministry of Health releases data.
3. Any unintended consequences of the new regime will be reported. If necessary, amendments to the venue payments regime (via regulations) may be made to mitigate these.

#### How venues will be monitored for the prevention and minimisation of gambling harm

1. Every venue is required to have a problem gambling identification policy, have problem gambling awareness training, display signage and provide information on problem gambling and how to seek advice.
2. As the regulator, the Department is responsible for ensuring that the sector is meeting its obligations under the legislation. The Department supports this through activities such as collaboration with other agencies on the development of harm minimisation resources, and assesses how the sector is doing through activities such as venue audits and mystery shopper exercises.
3. The Department holds information about the sector and the use of gaming machines via its Electronic Monitoring System (EMS). Every gaming machine is connected to this system. The information collected by EMS includes:

* the amount of money gambled on gaming machines;
* the amount required to be banked;
* the location and number of machines;
* gaming machine usage; and
* machine faults and tampering.

1. Weekly EMS reports are generated by the Department to monitor and review sector performance.

#### Additional monitoring issues

1. The Department is aware of the following issues that may arise with the new venue payments regime:

* **continued applicability of the 1.28 per cent commission rate** – each year (or at an appropriate interval) the Department will determine if the specified commission rate continues to be the best approximate match to the 16 per cent GMP limit;
* **manipulation of RTP percentages to maximise turnover** – the Department does not consider this risk to be substantial, but will be monitored by reviewing:
  + actual RTP percentages through the use of information from the Department’s electronic monitoring system; and
  + applications to amend licencing agreements [societies must apply for a licence change to alter a machine’s RTP settings].
* **incentives to advertise or offer inducements to encourage gambling** – the Department recommends maintaining a ‘watching brief’ on this issue. If marked increases in advertising started to occur, the Department could choose to scope regulation making powers under section 313 (1)(ba) and (g) to:
  + restrict or prohibit inducements to gamble; and
  + restrict or prohibit the advertising of gambling, gambling delivery mechanisms, gambling venues, gambling prizes, or any other thing related to gambling, or prescribing codes requiring such advertising to be responsible;
* **ability for non-tavern venues to increase gaming hours by keeping their primary business open for longer** – the Department considers this risk to be non-substantial but is able to monitor when gaming machines are operational and will keep a watching brief on this issue.

1. Class 4 gambling is gambling on gaming machines (or ‘pokies’) in pubs, hotels, and clubs. It does not include gaming machines in casinos. [↑](#footnote-ref-1)
2. Gaming machine proceeds, or GMP, is defined as turnover less prizes, excluding GST. [↑](#footnote-ref-2)
3. Gaming machine proceeds, or GMP, is defined as turnover less prizes, excluding GST. [↑](#footnote-ref-3)
4. Class 4 venue operators have obligations to prevent and minimise the harm from gambling. Problem gambling awareness training is required for venue staff, and venue managers need to reasonably ensure that the policy is used to identify problem gamblers. Venue operators are also responsible for the issuing of exclusion orders to identified problem gamblers in certain circumstances and implementation of any orders. The Gambling Amendment Act 2015 places further obligations on venue staff where there are ongoing concerns about a gambler’s behaviour. [↑](#footnote-ref-4)
5. Smaller venues may be being paid less than what they are entitled to because societies balance payments across their portfolio to keep within Limit D (16 per cent of GMP, excluding GST). Under the new regime, payments will be per venue, and not spread across a society’s portfolio of venues. [↑](#footnote-ref-5)
6. Under law, return to player percentages cannot be higher than 92 per cent or lower than 78 per cent. The majority of venues have their RTP percentages at 89 per cent or higher. Commission-based on turnover could incentivise venues to increases RTP percentages, but because most venues are already operating close to the RTP maximum, the impact is marginal. Commission-based on GMP incentivises venues to lower RTP percentages to increase GMP, thereby significantly increasing their venue payment. [↑](#footnote-ref-6)
7. S.372(1)(dd) states… ‘*that, subject to any conditions that maybe 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 service tax) of the class 4 gambling, for a stated period, at the venue’*. [↑](#footnote-ref-7)
8. The Department notes that a mandatory payment is not possible within existing primary legislation [s.371(1)(dd)(iii) refers] nor desirable as it would preclude societies from keeping total payments below the annualised limit. [↑](#footnote-ref-8)