



**Accounting  
concepts  
in a.....**

*..... gaming context*

# **The PROHIBITION**

\* Relating to renewals

## **Section 56. Renewal of class 4 operator's licence provides –**

**(1) A corporate society may apply to the Secretary for a renewal of its class 4 operator's licence before the expiry of the licence.**

***- However subsection 4 provides –***

**(4) Sections 51 and 52 apply to an application for renewal as if it were an application for a class 4 operator's licence.**

**Section 52 provides.**

**The Secretary must refuse to grant a class 4 operator's licence unless the Secretary is satisfied that, (among other things) —**

- **the applicant's proposed gambling operation is financially viable;**

# **Note:**

- ❖ **There is no starting presumptions of satisfaction to be displaced.**
- ❖ **It is a forward looking test**
- ❖ **The Secretary is afforded no discretion.**
- ❖ **The onus of proof is on the applicant.**

# **The PROHIBITION**

- Relating to renewals
- Relating to reserves

# The **PROHIBITION**

## ***The Gambling (Class 4 Net Proceeds)***

***Regulations 2004* set out the timing and quantum of net proceeds that must be distributed each year but – being contained in part 2 of these regulations - has no bearing on those class 4 holders who do not mainly distribute their net proceeds. (In other words those who “apply” their net proceeds)**

**However, licence conditions are imposed on those who “apply” their net proceeds and the conventional condition reads -**

# The PROHIBITION

## Minimum return to authorised purpose:

- (1) The minimum amount of net proceeds that a licence holder must apply and/or distribute for authorised purpose(s) is the proportion equivalent to 37.12% of its GST exclusive gross proceeds for each of its financial years, unless the Secretary has approved the **accumulation of funds** in accordance with licence condition 4 of these Class 4 Operator's Licence Conditions.**
- (2) For the purposes of this condition, "gross proceeds", in relation to class 4 gambling has the same meaning as defined in regulation 3 of the Gambling (Class 4 Net Proceeds) Regulations 2004.**



# **The PROHIBITION**

**It is important to note that the amount of distributed or applied net proceeds must be equal to 37.12% ...for *each of its financial years.***

**Therefore there must be no carry over of any undistributed or unapplied net proceeds from one financial year to another unless prior permission to accumulate net proceeds has been received.**

# The PROHIBITION

# The PERIOD

**It needs to be carefully noted that the Secretary is mandated to consider the “*proposed gambling operation*” of the applicant.**

**So this is a forward look, not a backward glance.**

# The PROHIBITION

# The PERIOD

**However, to test the realism of any forecast requires a comparison of that forecast to the historical financial data of the applicant.**

**NOTE:**

***It has been said that the difference between an accurate forecast and a yeti is that a yeti has been sighted!!***

# The PROHIBITION

## The PERIOD

**In its 2006 decision in respect of *First Sovereign Trust and Whiskey Jacks Ltd* (GC43/06) the Gambling Commission stated that –**

***“When assessing whether there will be future compliance, it is however, logically relevant to consider past compliance. Applicants with a history of non-compliance are less likely to comply in the future, while there may be no reason to question future compliance by applicants with an exemplary history.”***

# The PROHIBITION

## The PERIOD

**So this means that the previous year's financial information must be included in the application in the same format as the forecast –**

**..and this is where many problems and frustrations occur!**

**More about this later**

The PROHIBITION

The PERIOD

The **PROJECT**

**What is to be considered by the Secretary is the forecasted “*gambling operations*” of the applicant.**

**So this does not involve a Club-wide financial review nor does it require club-wide financial forecasts.**

The PROHIBITION

The PERIOD

The **PROJECT**

**However, a review of the Club-wide financial affairs of the applicant is necessary to gauge whether a club – in its overall context – is robust and is ‘solid’ on a going concern basis.**

**Of course, if it is not it throws into doubt the ability of the *‘gambling operations’* of the Club to remain financially viable in its own context.**

**The PROHIBITION**

**The PERIOD**

**The PROJECT**

**The PURPOSE**

**Is simply to assess the “*financial viability*” of an applicant’s Forecasts.**

**In this context the Secretary is required to consider, among other things, the ability of the applicant to –**

- ❖ **Reward winners and pay levies**
- ❖ **Pay taxes**
- ❖ **Pay other costs**
- ❖ **Apply or distribute net proceeds for authorised purposes.**



The PROHIBITION

The PERIOD

The PROJECT

The **PURPOSE**

**In its *Kiwi Community Trust* (GC19/09) decision the Gambling Commission held that in order for an applicant to be considered financially viable it must also meet the solvency test set out in the Companies Act 2004, particularly two limbs, namely –**

- To be able to pay its debts as they become due in the normal course of business, and**
- The value of its gaming assets must exceed its gaming liabilities including contingent liabilities.**

# The **PROBLEMS**

- 1. The historical financial detail included in the forecasts are often at odds with the audited financial statements.**
- 2. On too many instances the audited financial statements are incorrect due to issues 3, 4 and 5 below.**
- 3. Costs are often included in the Club's gaming account that have no relevance to its gambling operations.  
(examples)**
- 4. On many occasions relevant gambling costs are omitted from the Club's gaming account. (examples)**
- 5. The non-inclusion of a portion of indirect costs.**

# **The PROBLEMS (cont'd)**

**6. The bank balance(s) in one or more gaming accounts at year end are often substantially different to any balances of unapplied/undistributed net proceeds. (It is accepted that they ought not to agree, but should only differ by virtue of non-cash costs such as depreciation)**

**7. In 12 years at DIA I have never seen a Club's financial statements include a separate listing of gaming assets and liabilities. If these are not highlighted in some form it is difficult to assess the level of any unapplied net proceeds that should then feature as a separate current liability of the gaming operations with possible consequences in terms of liquidity.**

**8. There is no separate section of the Equity of the Club (either in the formal accounts or by way of note) setting out any 'gaming equity'**

**The PROHIBITION**

**The PERIOD**

**The PROJECT**

**The PURPOSE**

**The PROBLEMS**

**The POSSIBILITY**

# The **POSSIBILITY**

**Possibly the greatest challenge facing many smaller Clubs is their inability to generate sufficient net proceeds to cross the threshold of *“financial viability”***

**The DIA is prepared to consider a reduction in this threshold on a club-by-club basis but considers a threefold range of performances being relevant as follows:**

- **30% and above – very good and would normally be approved.**
- **25% to 30% - Marginal, but probably OK in most/some cases**
- **24% and below – suspect and unlikely to be approved.**

# The **POSSIBILITY**

**If your Club would like to consider pursuing this possibility you should carefully read the DIA's paper –**

***“Guide – Licence condition prescribing minimum return to authorised purpose”***

**It sets out helpful factors that ought to be considered when a club/society has not been performing satisfactorily. These include –**

- **Has the Club been realistic in its forecast of its financial performance?**
- **Has the Club had other incidents of non-compliance with requirements of the Act?**
- **What plans does the Club have to turn around its performance?**

# The **POSSIBILITY**

- **How engaged are the people (or key persons) involved in the Club's governance?**
- **Could the Club reduce its machine numbers to reduce its costs?**
- **What is the state of the Club's membership? Is it declining or growing?**
- **Has the Club given any consideration to seeking Ministerial approval to merge with another club?**

## **REMEMBER:**

**The plea that you are just too small a club to lift your game, won't cut it.**

**The PROHIBITION**

**The PERIOD**

**The PROJECT**

**The PURPOSE**

**The PROBLEMS**

**The POSSIBILITY**

**The POTENTIAL**



# Three year licensing

**What is its purpose?**

**What is involved?**

**What is its value?**

# Three year licensing

## What is its purpose?

**According to the DIA's *Gambits* paper of 11<sup>th</sup> April 2018, the stated purpose of three year licensing was stated in these terms –**

***“The intention is for longer licences to act as an incentive for best practice and compliance among societies and venues”***

# Three year licensing

## What is involved?

**The cornerstone of three year licensing is *“self assessment”*.**

**Applicants are expected to make a genuine assessment of their own performance each year and rate that performance on a four point scale, being –**

- Are there effective systems and practices in place?**
- Are there systems in place to identify areas of improvement?**
- Are regular reviews undertaken of those policies and systems?**
- Are improvements being made as a result of those reviews?**

# Three year licensing

## What is its value?

**The DIA states that three year licensing provides an incentive and framework for continued improvement and other potential benefits such as:**

- ***Reputational value improvement.***
- ***Increasing collaborative relationships with DIA***
- ***Easing of the administrative burden.***
- ***Allowing for longer-term planning.***
- ***Possible cost savings.***