

2024

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

GAMING MACHINE AMENDMENT BILL 2023

REVISED EXPLANATORY STATEMENT

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3 FEBRUARY 2024

GAMING MACHINE AMENDMENT BILL 2023

The Bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

This explanatory statement relates to proposed amendments to the *Gaming Machine Act 2004*. This explanatory statement does not form part of the Bill and has not been endorsed by the Assembly. The statement is to provide assistance to the reader of the Bill and is to be read in conjunction with the Bill.

OVERVIEW OF THE AMENDMENTS

Purpose

The amendments to the *Gaming Machine Act 2004* are to ensure that the Gambling and Racing Commission will not be able to issue authorisation certificates for Class C gaming machines in Molonglo Valley and other undeveloped areas of the ACT.

The Act amends the following legislation:

Gaming Machine Act 2004

Background

After running a substantial campaign in Molonglo Valley to understand resident's views, the feedback was clear - the vision that Molonglo Valley residents have for their developing community does not include poker machines. The community supports clubs without poker machines establishing in the area. This reform will address the fact that the closer in proximity that you live to venues with poker machines, the more likely you are to experience gambling harm.

This Bill goes to proactively addressing gambling harm in the ACT.

CONSISTENCY WITH HUMAN RIGHTS

International human rights law places obligations on governments to “respect, protect and fulfil” rights. During the development of these amendments due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004*. The amendments engage positively with the Human Rights Act 2004, including Section 11, the Right to protection of the family and children, and Section 15, Right to peaceful assembly and freedom of association.

Section 11 of the Human Rights Act 2004, states that ‘the family is the natural and basic group unit of society and is entitled to be protected by society’. These amendments seek to improve the Gaming Machine Act 2004. The objective of this Bill is to ensure that families and children in the Molonglo Valley and undeveloped areas of the ACT are not exposed to gambling harm and the substantial impacts this can have on families.

Section 15 of the Human Rights Act 2004 states that ‘everyone has the right of peaceful assembly’, alongside the invaluable right to foster connections through ‘freedom of association’. The amendments align with the essence of peaceful assembly, where community clubs will be able to establish in the Molonglo Valley or newly developed areas of the ACT, just without poker machines.

These amendments uphold and protect Human Rights.

These amendments do not limit any rights.

SUMMARY OF AMENDMENTS

Part 2 Important Concepts

Section 6 Eligibility of Individuals

Omit Part (2) (d) (1), note

The Act amends the *Gaming Machine ACT 2004*, to omit Section 6, Part (2) (d) (1), *note*. This omission is a consequential one based on the omission of Part 2C of the act and eliminates any role of in-principal authorisation certificate. Section 6, Part (2) (d) (1), *note*, provides the definition of licence, which is also provided in Section 56, necessitating omission for improved drafting efficiency since redundancy is unnecessary.

DIVISION 2A.1 Preliminary

Section 10G No applications for, or transfers of, authorisation certificates etc for certain licensees

Omit Part 2 (c)

By eliminating the capability to issue or modify authorisation certificates for class C gaming machines in undeveloped land, one of the outcomes will be the obsolescence of in-principle authorisation certificates outlined in Part 2C of the Act. Consequently, the Bill will excise the current mentions of in-principle certificates found in other sections of the Act. Section 10G(2)(c) currently states that a licensee cannot request an in-principle authorisation certificate following the voluntary surrender of an authorisation certificate, and this reference is removed in Clause 5 due to the omission of Part 2C of the Act.

DIVISION 2B.1 Definitions and important concepts

Section 12 Meaning of social impact assessment

Omit Part 1 (c)

The Act amends the *Gaming Machine Act 2004* to omit part 1 (c), removing the obligation for venues to provide a social impact assessment when applying for an in-

principle authorisation certificate. This change is based on the recognition that the assessment becomes irrelevant without 'in-principle' authorisations, as it typically evaluates the social and economic impact of gaming machine operations.

DIVISION 2B.1 Definitions and important concepts

Section 12 Meaning of social impact assessment

Omit Part 1, note, paragraph (c)

The Act amends the *Gaming Machine Act 2004* to omit part 1, note paragraph (c) to ensure that the venues do not have to provide a social impact assessment for an application for an in-principle authorisation certificate, acknowledging the changes made by the Gaming Machine Amendment 2023.

DIVISION 2B.1 Definitions and important concepts

Section 13 Social impact assessment-publication

Omit Part 1 (c)

The Act amends the *Gaming Machine Act 2004* to omit part 1(c) to ensure that the venues do not have to provide a social impact assessment for an application for an in-principle authorisation certificate to comply with the changes made by the Gaming Machine Amendment 2023.

DIVISION 2B.1 Definitions and important concepts

Section 13 Social impact assessment-publication

Substitute Part 4 and 5

The Act amends the *Gaming Machine Act 2004* to substitute part 4 and 5 to reflect the changes made above that the venues cannot apply for an in-principle authorisation certificate. It is a partly consequential amendment given that Section 13, part 4 (a) (ii) refers to 'in-principle authorisation certificates' which for drafting accuracy standards omits part 5 of section 13.

DIVISION 2B.3 Authorisation certificates for Class C gaming machines- application and issue

Section 23 Authorisation certificate for Class C gaming machines-decision on application

New Section 2A

The Act amends the *Gaming Machine Act 2004* to insert a new section (2A) to ensure that the Gambling and Racing Commission cannot issue an authorisation certificate for Class C gaming machines, to any applicant, if the premises are located in Molonglo Valley and an undeveloped area in the ACT.

DIVISION 2B.5 Licences and authorisation certificates- amendments

Section 33 Authorisation certificate amendment-application

Substitute (1) (b)

The Act amends the *Gaming Machine ACT 2004* to substitute Section 33 (1) (b); to reflect that venue licensee can relocate the gaming machines operations allowed under the authorisation certificates to new premises; only if they are in the permitted area. The area of Molonglo Valley or undeveloped areas of the ACT are not in the permitted area.

DIVISION 2B.5 Licences and authorisation certificates- amendments

Section 33 Authorisation certificate amendment-application

New Section 33(3)

The Act amends the *Gaming Machine ACT 2004*, to create a new section 33(3). This section defines permitted area for all gaming machine operations. A permitted means an area in the ACT other than- (a)Molonglo Valley or (b)an undeveloped area.

Part 2C In-Principal authorisation certificates

Omit Part 2C

The Act amends the *Gaming Machine ACT 2004*, to omit Part 2C. This omission ensures that no authorisation certificate for gaming machines can be taken at an address at unleased land in the ACT.

DIVISION 3.3 Club licence conditions

Section 56 Definitions-pt 4

Substitute licence

The Act amends the *Gaming Machine ACT 2004*, to substitute the definition of *licence* and reflect the impetus that the Gaming Machine Amendment Act 2023 brings.

DIVISION 3.3 Club licence conditions

Section 56 Definitions-pt 4

Omit Note 1

The Act amends the *Gaming Machine ACT 2004*, omits Note 1 to exclude in-principle authorisation certificate and reflect the changes made above.

DIVISION 3.3 Club licence conditions

Section 56 Definitions-pt 4

New Section 2

The Act amends the *Gaming Machine ACT 2004*, to create a new section 2. This section provides the provision that definition of license expires 4 years after the section 13 of the Gaming Machine Amendment Act 2023 commences.

DIVISION 3.3 Club licence conditions

Section 57 Grounds for disciplinary action

New Section 5

The Act amends the *Gaming Machine ACT 2004*, to create a new section 5. This section provides the definition of the approval-holder, who can be penalised after the Gaming Machine Amendment Act 2023 commences.

Reviewable decisions

Schedule 1

Omit Items 14 to 17

The Act amends the *Gaming Machine ACT 2004*, omits items 14 to 17 to exclude the issuing, transferring, extension and refusal for the in-principle authorisation certificate of the venues and reflect the changes made above.

Dictionary

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

Insert ‘territory land’

The Act amends the *Gaming Machine ACT 2004*, to insert ‘territory land’ to the list of definitions provided by Legislation ACT 2001, in the dictionary of the *Gaming Machine ACT 2004*.

Dictionary

Definitions of approval-holder and in-principle authorisation certificate

Omit

The Act amends the *Gaming Machine ACT 2004*, to omit the definitions of approval-holder and in-principle authorisation certificate.

Dictionary

New Definitions

The Act amends the *Gaming Machine ACT 2004*, to insert new definitions of 'Molonglo Valley' and 'rural lease', in the dictionary of the *Gaming Machine ACT 2004*.

The intention of these amendments is to ensure that no gaming machines can be installed in any venue in Molonglo Valley in the ACT.

Dictionary

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

Substitute 'social impact assessment'

The Act amends the *Gaming Machine ACT 2004*, to substitute 'social impact assessment' to the list of definitions provided to reflect Section 12(1), of the *Gaming Machine ACT 2004*.

Dictionary

New Definition of undeveloped area

The Act amends the *Gaming Machine ACT 2004*, to insert a new definition of 'undeveloped area', in the dictionary of the *Gaming Machine ACT 2004*.

The intention of these amendments is to ensure that no gaming machines can be installed in any venue in an undeveloped area in the ACT.

CLAUSE NOTES

Clause 1 Name of Act

The clause provides that the name of the Act is the Gaming Machine Amendment Bill 2023

Clause 2 Commencement

This clause provides for the commencement of the Act. The Act identifies that the legislation will commence on the day after its notification day.

Clause 3 Legislation Amended

This Clause identifies that the legislation that will be amended is the *Gaming Machine Act 2004*.

Part 2 Important Concepts

Clause 4 Omit Section 6 (2) (d) (1), note

The Act amends the *Gaming Machine Act 2004*, to omit Section 6, Part (2) (d) (1), *note*. This omission ensures that the definition of licence is omitted to reflect the changes made by the Gaming Machine Amendment 2023.

DIVISION 2A.1 Preliminary

Clause 5 Omit 10G (2) (c)

The Act amends the *Gaming Machine Act 2004* to omit part 2 (c) to ensure that the venues cannot apply for an authorisation certificate for Class C gaming machines, if the premises are located in Molonglo Valley and an undeveloped area in the ACT.

DIVISION 2B.1 Definitions and important concepts

Clause 6 Omit Part 1 (c)

The Act amends the *Gaming Machine Act 2004* to omit part 1 (c) to ensure that the venues do not have to provide a social impact assessment for an application for an in-principle authorisation certificate.

DIVISION 2B.1 Definitions and important concepts

Clause 7 Omit Part 1, note, paragraph (c)

The Act amends the *Gaming Machine Act 2004* to omit part 1, note paragraph (c) to ensure that the venues do not have to provide a social impact assessment for an application for an in-principle authorisation certificate, to comply with the changes made by the Gaming Machine Amendment 2023.

DIVISION 2B.1 Definitions and important concepts

Clause 8 Omit Part 1 (c)

The Act amends the *Gaming Machine Act 2004* to omit part 1(c) to ensure that the venues do not have to provide a social impact assessment for an application for an in-principle authorisation certificate, to comply with the changes made by the Gaming Machine Amendment 2023.

DIVISION 2B.1 Definitions and important concepts

Clause 9 Substitute Part 4 and 5

The Act amends the *Gaming Machine Act 2004* to substitute part 4 and 5 to reflect the changes made above that the venues cannot apply for an in-principle authorisation certificate.

DIVISION 2B.3 Authorisation certificates for Class C gaming machines- application and issue

Clause 10 New Section 23 (A)

This clause ensures that Gambling and Racing Commission cannot issue an authorisation certificate for Class C gaming machines, to any applicant, if the premises in located in Molonglo Valley and an undeveloped area in the ACT.

DIVISION 2B.5 Licences and authorisation certificates- amendments

Clause 11 Substitute Section 33 (1) (b)

This clause provides the legislation that venue licensee can relocate the gaming machines operations allowed under the authorisation certificates to new premises; only if they are in the permitted area. The area of Molonglo Valley or undeveloped areas of the ACT are not in the permitted areas in the ACT.

DIVISION 2B.5 Licences and authorisation certificates- amendments

Clause 12 New Section 33 (3)

This clause provides the legislation to create a new section 33(3). This section defines permitted area for all gaming machine operations. A permitted means an area in the ACT other than- (a) Molonglo Valley or (b) an undeveloped area.

Part 2C In-Principal authorisation certificates

Clause 13 Omit Part 2C

This clause provides the legislation to omit Part 2C. This omission ensures that no authorisation certificate for gaming machines can be taken at an address at unleased land in the ACT.

DIVISION 3.3 Club licence conditions

Clause 14 Substitute licence

The Act amends the *Gaming Machine ACT 2004*, to substitute the definition of *licence* and reflect the impetus that the Gaming Machine Amendment Act 2023 brings.

DIVISION 3.3 Club licence conditions

Clause 15 Omit Note 1

The Act amends the *Gaming Machine ACT 2004*, omits Note 1 to exclude in-principle authorisation certificate and reflect the changes made above

DIVISION 3.3 Club licence conditions

Clause 16 New Section 2

The Act amends the *Gaming Machine ACT 2004*, to create a new section 2. This section provides the provision that definition of license expires 4 years after the section 13 of the Gaming Machine Amendment Act 2023 commences.

DIVISION 3.3 Club licence conditions

Clause 17 New Section 5

The Act amends the *Gaming Machine ACT 2004*, to create a new section 5. This section provides the definition of the approval-holder, who can be penalised after the Gaming Machine Amendment Act 2023 commences.

Reviewable decisions

Clause 18 Omit Items 14 to 17

The Act amends the *Gaming Machine ACT 2004*, omits items 14 to 17 to exclude the issuing, transferring, extension and refusal for the in-principle authorisation certificate of the venues and reflect the changes made above.

Dictionary **Note 2**

Clause 19 **Insert ‘territory land’**

This clause provides the legislation to insert ‘territory land’ to the list of definitions provided by Legislation ACT 2001, in the dictionary of the *Gaming Machine ACT 2004*.

Dictionary

Clause 20 **Omit**

The Act amends the *Gaming Machine ACT 2004*, to omit the definitions of approval-holder and in-principle authorisation certificate.

Dictionary **New Definitions**

Clause 21 **Insert ‘Molonglo Valley’ and ‘rural lease’**

This clause provides the legislation to insert new definitions of ‘Molonglo Valley’ and ‘rural lease’, in the dictionary of the *Gaming Machine ACT 2004*.

Dictionary

Clause 22 **Substitute ‘social impact assessment’**

The Act amends the *Gaming Machine ACT 2004*, to substitute ‘social impact assessment’ to the list of definitions provided to reflect Section 12(1), of the *Gaming Machine ACT 2004*.

Dictionary

Clause 23 **New Definition of undeveloped area**

The Act amends the *Gaming Machine ACT 2004*, to insert a new definition of ‘undeveloped area’, in the dictionary of the *Gaming Machine ACT 2004*.