



**Legislative Assembly for the
Australian Capital Territory**

Standing Committee on Justice and
Community Safety

Inquiry into Gaming Machine Amendment Bill 2023

Legislative Assembly for the Australian Capital Territory
Standing Committee on Justice and Community Safety

Approved for publication

Report 21
10th Assembly
November 2023

About the committee

Establishing resolution

The Assembly established the Standing Committee on Justice and Community Safety on 2 December 2020.

The Committee is responsible for the following areas:

- ACT Electoral Commission
- ACT Integrity Commission
- Gaming
- Minister of State (JACS reporting areas)
- Emergency management and the Emergency Services Agency
- Policing and ACT Policing
- ACT Ombudsman
- Corrective services
- Attorney-General
- Consumer affairs
- Human rights
- Victims of crime
- Access to justice and restorative practice
- Public Trustee and Guardian

You can read the full establishing resolution [on our website](#).

Committee members

Mr Peter Cain MLA, Chair

Dr Marisa Paterson MLA, Deputy Chair

Mr Andrew Braddock MLA

Secretariat

Ms Kathleen de Kleuver, Committee Secretary

Mr Peter Materne, Assistant Secretary (until 23 November 2023)

Ms Alicia Coupland, Assistant Secretary

Mr Satyen Sharma, Administrative Officer

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About this inquiry

The *Gaming Machine Amendment Bill 2023* was presented in the Assembly on 31 August 2023. It was then referred to the Standing Committee on Justice and Community Safety as required by clause 5 of the establishing resolution on 6 September 2023. This clause allows committees to inquire into and report on bills within two months of their presentation. A further extension to three months was granted by a motion of the Assembly on 14 September 2023, with a revised reporting date of 1 December 2023.

At a private meeting on 6 September 2023, the Committee resolved to undertake an inquiry into the Bill. The Committee called for public submissions on 7 September 2023.

The Bill proposes to amend the *Gaming Machine Act 2004* 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.

Support for problem gambling

Gambling Support Services are available on TEL 1800 858 858 (Gambling Helpline - 24/7 anonymous support) and at www.gamblinghelponline.org.au (Gambling Help Online website).

In addition, the ACT Gambling Support Service provides free specialised professional counselling, available for people who may be experiencing gambling harm and for their family members. This service provides free telephone and face to face counselling, peer support and outreach programs – to find out more visit www.actgamblingsupport.org.au.

Care's financial counselling program provides free, confidential, and independent services to assist people experiencing financial difficulty, including people impacted by gambling. You can contact Care between 9:30 am and 4:30 pm Monday to Friday on 1800 007 007 or via their website www.carefcs.org/financial-counselling.

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Acronyms

Acronym	Long form
ABN	Australian Business Number
ACT	Australian Capital Territory
ACTCOSS	ACT Council of Social Service
The Bill	Gaming Machine Amendment Bill 2023
The Commission	ACT Gambling and Racing Commission
EGM(s)	Electronic gaming machine(s)
HRA	Human Rights Act 2004
MLA	Member of the Legislative Assembly
NSW	New South Wales
QON	Question on notice
QTON	Question taken on notice
The Scrutiny Committee	Standing Committee on Justice and Community Safety (Legislative Scrutiny role)
The Territory	The Australian Capital Territory

Recommendations

Recommendation 1

The Committee recommends that the Assembly passes the Gaming Machine Amendment Bill 2023.

1. Conduct of the inquiry

- 1.1. The Committee announced that it would inquire into the *Gaming Machine Amendment Bill 2023* on 6 September 2023, and issued a media release on 7 March 2023 inviting the community to participate in the inquiry by making a submission. Invitations to make submissions to the inquiry were also emailed directly to stakeholders.
- 1.2. The Committee received 5 submissions. These are listed in **Appendix A**.
- 1.3. The Committee held a public hearing on Wednesday, 8 November 2023. Witnesses who appeared at the hearing are listed in **Appendix B**.
- 1.4. A breakdown of witnesses at the public hearing by gender identity is given in **Appendix C**.
- 1.5. In this report, references to *Committee Hansard* are to the *Uncorrected Proof Transcript* of evidence. Page numbers may vary between proof and final official transcripts.

2. Introduction

Background to the Bill

- 2.1. The Gaming Machine Amendment Bill 2023 (the Bill) is a private members bill which proposes to amend the *Gaming Machine Act 2004* to ensure that the ACT Gambling and Racing Commission (the Commission) will not be able to issue authorisation certificates for Class C gaming machines in Molonglo Valley and other undeveloped areas of the ACT.¹
- 2.2. A 'class C gaming machine' is defined by the *Gaming Machine Act 2004* as:
 - a gaming machine that consists of a game other than the following games or games derived from them: (i) roulette; (ii) blackjack; (iii) sic bo; (iv) craps; (v) pai gow; (vi) baccarat; (vii) two-up; (viii) money wheel; (ix) draw poker;
 - but does not include a gaming machine prescribed by regulation.²
- 2.3. Section 15 of the *Gaming Machine Act 2015* states that a Club may apply to the Commission for a licence for class C gaming machines (a class C licence application).³
- 2.4. The explanatory statement accompanying the Gaming Machine Amendment Bill 2023 states that it was introduced on the basis of feedback received from residents of the Molonglo Valley to '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'.⁴
- 2.5. The explanatory statement notes that the Bill is consistent with human rights law, being compatible with the *Human Rights Act 2004* (HRA), namely Section 11, *Right to protection of the family and children*, and Section 15, *Right to peaceful assembly and freedom of association*. Community clubs will be able to establish in the Molonglo Valley or newly developed areas of the ACT, just without poker machines.⁵

Legislative scrutiny

- 2.6. The Bill was considered by the Standing Committee on Justice and Community Safety (Legislative Scrutiny role) (the Scrutiny Committee) in its *Scrutiny Report 34* of 18 September 2023.
- 2.7. The Scrutiny Committee sought further information from the Member on why the bill seeks to differentiate the operation of the Gaming Machine Act on the basis of locality and why this is a reasonable limitation using the framework in section 28 of the *Human Rights Act 2004*.⁶

¹ Gaming Machine Amendment Bill 2023, *Explanatory Statement*, p 2.

² Gaming Machine Act 2004, *Dictionary*, pp 236 - 237.

³ Gaming Machine (Reform) Amendment Act 2015, *Division 2B.2 Class C licences - application and issue, Section 15*, p 15.

⁴ Gaming Machine Amendment Bill 2023, *Explanatory Statement*, p 2.

⁵ Gaming Machine Amendment Bill 2023, *Explanatory Statement*, pp 2 - 3.

⁶ Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 34*, 18 September 2023, p 11.

- 2.8. The Scrutiny Committee expressed further concern that the explanatory statement accompanying the bill included information which in their view was confusing or unhelpful in identifying the effect of the clause on the operation of the Act being amended.
- 2.9. The Scrutiny Committee requested that the explanatory statement be revised to include an outline of the provisions which correctly refers to the provisions in the Act being amended and provides the reader with an accurate indication of the effect and reason for the clause, and its relationship with other amendments and the overall objectives of the Bill.⁷
- 2.10. The Scrutiny Committee drew these matters to the attention of the Assembly and requested that the Minister respond to these concerns before the Bill was debated.⁸
- 2.11. At the time of writing this report, the Scrutiny Committee had not yet seen the Member's response to the Scrutiny matters noted above – in report no. 36 issued 17 October it is listed as still outstanding.

3. Gaming reforms in the ACT

Electronic gaming machines in the ACT

- 3.1. At the public hearing, the Minister for Gaming said that there are now 3,793 authorisations available in the ACT, compared to 4,946 in August 2018.⁹ There are 41 Class C authorisation certificates with clubs and five Class B authorisation certificates with hotels and/or taverns. Of the 3587 gaming machines in operation, there are only two hotels/taverns operating a total of 20 machines.¹⁰
- 3.2. Class B machines are being phased out, it is not possible to apply for a new licence or authorisation for a class B machine which are generally outdated and low-revenue machines mainly operating in hotels and taverns.¹¹

Parliamentary and Governing Agreement

- 3.3. Under the 10th Legislative Assembly [ACT Parliamentary and Governing Agreement](#) between ACT Labor and the ACT Greens, an agreed target to reduce the number of electronic gaming machine (EGM) licences in the ACT to 3500 by 1 July 2025 is in place, to be achieved through incentives. In addition, it was agreed to assist clubs to move to other revenue generating streams.¹²

⁷ Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 34*, 18 September 2023, p 12.

⁸ Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 34*, 18 September 2023, p 12.

⁹ Mr Shane Rattenbury, Minister for Gaming, *Uncorrected Proof Committee Hansard*, 8 November 2023.

¹⁰ ACT Gambling and Racing Commission, Gaming Machine Reform Package – trading scheme, information provided as at 1 October 2023. [Trading-Scheme-Information-as-at-01-October-2023.pdf \(act.gov.au\)](#) (accessed 9 November 2023)

¹¹ ACT Gambling and Racing Commission, Fact Sheet 007 Class B Licences [007-Class-B-licences.pdf \(act.gov.au\)](#) (accessed 10 October 2023)

¹² Parliamentary & Governing Agreement, 10th Legislative Assembly, Australian Capital Territory, p 11.

Surrender incentive payment

- 3.4. In March 2022, the ACT Government announced that it was investing \$1.74 million into a new gaming machine surrender incentive scheme to reduce the number of gaming machine authorisations. Under the scheme, the ACT Government pays \$15,000 for each authorisation surrendered, which increases to \$20,000 where all authorisation certificates are surrendered. Payments were to be paid up to 31 December 2022 or until the fund was exhausted. The number of authorisations was to reduce by up to 116.¹³

Diversification and Sustainability Support Fund (DSSF)

- 3.5. The DSSF was established in 2015, with the fifth round of funding of up to \$250,000 announced on 29 June 2023 to be used for projects and initiatives to help clubs generate income from sources other than gaming machines, such as upgrading or adding new kitchen or dining facilities or constructing a conference facility.¹⁴ In the previous round six clubs were provided in total more than \$950,000 in funding.¹⁵

\$5 bet and \$100 credit limits

- 3.6. On 29 April 2022, the Minister for Gaming released a discussion paper on a proposal to establish a 'central monitoring system' to introduce \$5 bets and \$100 credit limits in the ACT.¹⁶ A listening report was published on 27 September 2022 with legislation to occur soon.¹⁷

4. Issues raised in evidence

Impact of the Bill

- 4.1. Through the inquiry, the Committee sought to better understand the impacts of the Bill.
- 4.2. The Committee looked at whether the impacts of not allowing EGMs in the Molonglo Valley and undeveloped areas in the ACT would provide overall benefits to the local community, as well as considered any adverse effects on the Clubs and gaming industry in the ACT.

¹³ ACT Government Media Release, Mr Shane Rattenbury MLA, Cutting the number of pokies with new surrender incentive, 18 March 2022.

¹⁴ Mr Shane Rattenbury, MLA, [Media Release Funding round opens for sustainable clubs](#), 29 June 2023.

¹⁵ Mr Shane Rattenbury, MLA, Media Release, [New funding for clubs will reduce reliance on gambling revenue](#), 25 April 2023.

¹⁶ Mr Shane Rattenbury, MLA, Media Release, [Reducing gambling harm from poker machines](#), 29 April 2022

¹⁷ ACT Government, Your Say, [Electronic gaming machine reform](#), (accessed 10 October 2023)

Reducing gambling harms in the ACT

- 4.3. Clubs ACT raised concerns that if individuals do not have a local venue to gamble at this may lead to online gaming, where there are fewer gambling harm assistance mechanisms in place to intervene and assist them to access support.¹⁸
- 4.4. ACTCOSS told the Committee that the Bill was a welcome step to reduce gambling harms, noting it would keep those areas free from gambling venues and that there was support from the Molonglo Valley Community.¹⁹
- 4.5. Dr Bruce Arnold from the University of Canberra felt that the Bill needed to go further to reduce gambling harms and make clubs less dependent on revenue from gaming. He noted that there is a large body of scholarly literature regarding gambling harms across a diverse demographic range.²⁰
- 4.6. The Alliance for Gambling Reform welcomed the Bill as a measure to reduce gambling harms. It quoted Victorian research which suggests that people residing further from gambling venues are less likely to gamble.²¹
- 4.7. Mr Rattenbury, Minister for Gaming, reiterated that the government has seen research confirming that those who live in closer proximity to gaming machines are more likely to gamble.²²

Concerns with limiting the impacts to certain parts of the ACT

- 4.8. Rod Pitcher stated that not extending the Bill to other parts of the ACT could be construed as discrimination, stating that it is important that all people in the ACT should have protection against gambling harms.²³ This aligns with concerns raised by the Scrutiny Committee.²⁴
- 4.9. Dr Bruce Arnold told the committee that on its own the Bill was not a solution as gamblers in the Molonglo Valley will be able to travel to a club outside the Molonglo Valley to gamble or game online.²⁵
- 4.10. Clubs ACT representing many clubs operating across the ACT and in collaboration with the Labour Club Group, told the committee that they supported having the Molonglo Valley as a trial location for a pilot for the establishment of club facilities operating without EGMs. However, they did not support banning the machines from undeveloped areas beyond the

¹⁸ Clubs ACT, *Submission 005*, p 6.

¹⁹ ACTCOSS, *Submission 004*, p 1.

²⁰ Associate Professor (Law) Dr Bruce Arnold, *Submission 002*, p 1.

²¹ Alliance for Gambling Reform, *Submission 003*, pp 1-2.

²² Mr Shane Rattenbury, Minister for Gaming, *Proof Committee Hansard*, 8 November 2023, p 4.

²³ Rod Pitcher, *Submission 001*, p 2.

²⁴ Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 34*, 18 September 2023, p 11.

²⁵ Associate Professor (Law) Dr Bruce Arnold, *Submission 002*, p 2.

Molonglo Valley, and instead suggested that ‘un-developed areas’ be replaced with ‘for-profit venues’.²⁶

- 4.11. The Minister for Gaming noted that there were already some restrictions in place as any venues seeking to establish in Molonglo would need to obtain their authorisations from other venues within the pool of available licences.²⁷ He further said that the Government had considered the legality of the legislation noting that there are some existing geographical trade restrictions (such as for the sex work industry) and that competition laws and policies are unlikely to be a limiting factor:

the ACT is a party to the 2016 Intergovernmental Agreement on Competition and Productivity enhancing Reforms. That agreement commits parties to a number of competition principles, including that government policies binding the private sector should not unnecessarily restrict competition. An exception to this is that if the benefit outweighs the cost of the restriction to the community as a whole and the objective can only be achieved by restricting the competition to that extent. I think this argument may be made in the context of gaming harm that there is a clear other benefit that is seeking to be derived that outweighs the competition considerations that would arise under those intergovernmental agreements.²⁸

Extending the scope of the bill to include for profit venues

- 4.12. Clubs ACT noted their concerns of for-profit venues in other jurisdictions failing to adhere to their regulatory obligations and highlighted that “gambling in connection with a profit motive can become a key driver for negative harm”²⁹. They suggested that the Bill be amended to specifically exclude any expansion of gaming machine license in for-profit venues and this would be of greater benefit than a geographic prohibition.³⁰
- 4.13. Mr Rattenbury, Minister for Gaming, stated that the ACT has a historical position of not allowing EGMs in for-profit venues, but that current legislation does allow them to obtain EGMs in certain circumstances. He stated that, as this Bill aims to take a geographic focus, it would be consistent for it to apply regardless of a venue’s profit or not-for-profit status, as the purpose is to have a geographical area with no poker machines in it.³¹ He did however, also note that at the time of the hearing, the ACT government had not formed a formal position on the bill.³²

Impact on clubs and the community

- 4.14. Clubs ACT told the Committee that without EGMs non-for-profit community clubs would require ACT Government funding in order to continue providing benefits to local communities. They said that an alternative sustainable model for Club revenue was

²⁶ Clubs ACT, *Submission 005*, p 4.

²⁷ Mr Shane Rattenbury, Minister for Gaming, *Proof Committee Hansard*, 8 November 2023, p 5.

²⁸ Mr Shane Rattenbury, Minister for Gaming, *Proof Committee Hansard*, 8 November 2023, p 5.

²⁹ Clubs ACT, *Submission 005*, p 3.

³⁰ Clubs ACT, *Submission 005*, p 3.

³¹ Mr Shane Rattenbury, Minister for Gaming, *Proof Committee Hansard*, 8 November 2023, p 2.

³² Mr Shane Rattenbury, Minister for Gaming, *Proof Committee Hansard*, 8 November 2023, p 1.

required before a ban could apply to undeveloped areas.³³ There was some frustration expressed on planning and development processes including that for social housing developments.³⁴

- 4.15. They expressed concerned that future communities in currently undeveloped areas would not be able to benefit from the social cohesion provided by investments by clubs.³⁵
- 4.16. At the public hearing, the Minister for Gaming noted that amenities that are often provided by clubs could be provided by other means than by clubs.³⁶ Some examples could be a restaurant, café or a licensed club that doesn't have poker machines.³⁷
- 4.17. The Minister provided the Committee with an example of a club that has gone 'pokie-free' at the public hearing. Under the Surrender incentive payment, Yowani Golf Club has surrendered their authorisation certificate and licensing in March 2023 and is now a venue free of EGMs.³⁸

5. Conclusion

- 5.1. The Committee notes that the Bill does not make any specific mention of for-profit venues and it may be beneficial to consider whether it is necessary to expand the scope of the Bill to expressly also exclude for-profit venues in the Molonglo Valley and undeveloped areas.
- 5.2. The Committee makes 1 recommendation in its *Inquiry into the Gaming Machine Amendment Bill 2023*.

Recommendation 1

The Committee recommends that the Assembly passes the Gaming Machine Amendment Bill 2023.

- 5.3. The Committee would like to thank all those who participated in this inquiry including those who made submissions and appeared at the public hearing.

Peter Cain MLA
Chair
November 2023

³³ Clubs ACT, *Submission 005*, p 4.

³⁴ Clubs ACT, *Submission 005*, p 4.

³⁵ Clubs ACT, *Submission 005*, p 4.

³⁶ Mr Shane Rattenbury, Minister for Gaming, *Proof Committee Hansard*, 8 November 2023, pp 3.

³⁷ Mr Shane Rattenbury, Minister for Gaming, *Proof Committee Hansard*, 8 November 2023, p 4.

³⁸ Mr Shane Rattenbury, Minister for Gaming and Mr Daniel Ng, Executive Branch Manager Civil & Regulatory Law Branch, Legislation Policy and Programs, Justice and Community Safety Directorate, *Proof Committee Hansard*, 8 November 2023, pp 3,6.

Appendix A: Submissions

No.	Submission by	Received	Published
1	Rod Pitcher	09/09/2023	04/10/2023
2	Bruce Baer Arnold, Canberra Law School, University of Canberra	18/09/2023	04/10/2023
3	Alliance for Gambling Reform	21/09/2023	04/10/2023
4	ACTCOSS	29/09/2023	04/10/2023
5	Clubs ACT	09/10/2023	12/10/2023

Appendix B: Witnesses

8 November 2023

Mr Shane Rattenbury MLA, Minister for Gaming

Mr Daniel Ng, Executive Branch Manager Civil & Regulatory Law Branch, Legislation Policy and Programs, Justice and Community Safety Directorate

Mr Giuseppe Mangeruca, Acting Executive Branch Manager, Fair Trading and Compliance, Access Canberra

Appendix C: Gender distribution of witnesses

Beginning in April 2023, in response to an audit by the Commonwealth Parliamentary Association, Committees are collecting information on the gender of witnesses. The aim is to determine whether committee inquiries are meeting the needs, and allowing the participation of, a range of genders in the community. Participation is voluntary and there are no set responses.

Gender indication	Total
Female	0
Male	3
Non-binary	0
Gender neutral	0
No data	0

Appendix D: Dissenting report by Mr Peter Cain MLA

1. If the Gaming Machine Amendment Bill 2023 is passed, then this will mean that the Molonglo valley, and undeveloped areas of Canberra, will not have the benefit of a community club.
2. As noted under heading 3. in the Report, “Gaming reforms in the ACT”, there are currently 3,793 authorisations for gaming machines, to be reduced to 3,500 by 1 July 2025. The commercial reality is that clubs depend upon these machines to be financially viable. While there are measures designed to reduce the dependency of clubs upon gaming machine revenue, they will be tolerated for some time under any Labor/Green alliance.
3. The Bill if passed will deny established clubs the opportunity to use some of their current authorisations to help support a club venue in the Molonglo Valley and in future developments. My conclusion is supported by the submissions from Clubs ACT-see Clubs ACT submission, page 4:

It cannot be denied, however, that EGM’s are a fundamental contributor to the capacity of Canberra’s not-for-profit Community Clubs to provide community facilities and support on a range of fronts including sporting and recreational facilities, emergency evacuation venues, and direct financial support for community sporting and cultural organisations.

In the absence of these revenue options from EGM’s, much of the capacity for Clubs to support local communities would be unavailable without direct ACT Government funding at some considerable expense to the budget.

4. Further, individuals from these areas addicted to playing these machines would simply travel to a current club to use the machines there, and so there the likelihood that this Bill if passed would do little to reduce gambling harm.
5. I note that the absence of a community club in the Molonglo Valley would also mean greater trade for nearby clubs, like the Weston Creek Labor Club in Stirling, which offer recreational, dining and meeting opportunities unable to be accessed in the Molonglo Valley.
6. The residents of the Molonglo Valley and subsequently developed land should not be denied the opportunity to enjoy the range of services offered by clubs in the ACT, opportunities that would be denied them if this Bill is passed.

Recommendation

I recommend that the Legislative Assembly does not pass the Gaming Machine Amendment Bill 2023

Mr Peter Cain MLA

November 2023