

2024

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

GAMING MACHINE (COMPULSORY SURRENDER) AMENDMENT BILL 2024

SUPPLEMENTARY EXPLANATORY STATEMENT

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GAMING MACHINE (COMPULSORY SURRENDER) AMENDMENT BILL 2024

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 Private Members amendments to the *Gaming Machine (Compulsory Surrender) Amendment Bill 2024*. It has been prepared to assist the reader of the Bill and to help inform public comment on an Exposure Draft prior to tabling the Bill in the ACT Legislative Assembly. This explanatory statement does not form part of the Bill and has not been endorsed by the Assembly. The statement is to be read in conjunction with the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

OVERVIEW OF THE AMENDMENTS

Purpose

The purpose of amendments the *Gaming Machine (Compulsory Surrender) Amendment Bill 2024* is to amend the *Gaming Machine Act 2004* to set long-term limits on the number of gaming machine authorisations in the ACT. There will be a reduction of 500 authorisations every 4 years from 2025. This results in a cap being set of 1,000 or fewer authorisations by 2045.

Background

Electronic gaming machines (EGMs) are well known to cause significant harm to individuals, families, and communities. The 2019 ACT Prevalence Survey reported that 60% of ACT residents had participated in at least one form of gambling in the preceding 12 months. Of those who participated in gambling, 10% (approx. 31,000 people) reported experiencing some level of harm. People who used EGMs experience harm at a disproportionate rate with 31% of EGM users experiencing gambling-related harm. In the 2022/23 reporting period, ACT residents lost more than \$180 million on EGMs.

By 2016 when the first compulsory surrender scheme commenced, there were over 5,000 EGM authorisations in the territory. Currently, there are 3,790 authorisations and this is expected to reduce to 3,500 by 1 July 2025, dependant on the Assembly passing the *Gaming Machine (Compulsory Surrender) Amendment Bill 2024*. These private member amendments present the continuation of ACT Government policy to reduce machine numbers, with a long-term outlook to provide certainty to the club sector. In line with previous Government reductions, this Bill will set targets of a reduction in machine numbers by 500 every 4 years to reach 1,000 EGM authorisations or fewer by 1 July 2045.

Evidence shows the closer in proximity that an individual lives in relation to EGMS, , the more likely they are to experience harm. Reducing EGM numbers and therefore, reducing density and accessibility to EGMs across the ACT, will ultimately reduce gambling harm. Although, this must happen in conjunction with the implementation of in-venue harm-minimisation measures.

The Minister for Gaming introduced the *Gaming Machine (Compulsory Surrender Amendment Bill 2024* to the Assembly on 21st March 2024. This Bill will ensure authorisations for EGMs in the ACT are no higher than 3,500 by 1 July 2025. These amendments extend the compulsory surrender program to 2045 with a reduction of 500 authorisations every 4 years. This results in the cap on authorisations being set to 1,000 by 2045.

CONSULTATION ON THE PROPOSED APPROACH

This approach to a long-term vision to address gambling harm has been discussed with the major stakeholders in the ACT representing the club sector, community services sector, and advocates for gambling reform.

CONSISTENCY WITH HUMAN RIGHTS

These amendments do not engage with human rights. The Scrutiny Committee considered the Minister's Amendment Bill in Scrutiny Report 40 and made no comment, stating 'the legislation will only impose obligations on licensees under the Act, which relevantly only extends to incorporated bodies'.

The private member amendments only speak to obligations on licensees, which does not limit or promote human rights.

CLAUSE NOTES

Division 2A – Reducing cap on authorisations in the ACT to 4,000 or fewer

Clause 1 – Part 2A heading

This clause omits Clause 4 in the original amendment Bill and substitutes it with a new heading for Part 2A. The new heading will read ‘Reducing cap on authorisations to 1 000 or fewer by 2045’

Division 2A.5 – Expiry – pt 2A

Clause 2 – New section 10I (1)

This clause will insert a new definition of *authorisation target* into the new section 10I. The definition of *authorisation target* will be as defined in section 10IA.

Clause 3 – New section 10I (1)

This clause will omit the definition of *census date* in the new section 10I and substitute it with a new definition. The new definition shall read – ‘for an assessment in a relevant year, means the day determined by the Minister’

Clause 4 – New section 10I (1)

This clause will amend the definition of *licensee* in the new section 10I. This amendment will insert ‘, in a relevant year’ after ‘census date’.

Clause 5 – New section 10I (1)

This clause will insert a new definition of *relevant year* into the new section 10I. The definition for an authorisation target will be as defined in section 10IA.

Clause 6 – New section 10IA

This clause will insert a new section 10IA into the original Bill. The title for section 10IA will be ‘Target capon authorisations in a relevant year’. This section will also include Table 10IA which will outline the authorisation targets for each relevant year from 2025 to 2045.

This section will also be the reference point for the definitions of *authorisation target* and *relevant year*. *Authorisation target* shall be defined as ‘the number of authorisations the cap is to be reduced to’. *Census date* shall be defined as 1 July in the year mentioned in column 3 of Table 10IA.

Clause 7 – New section 10J (1) and (2)

This clause will omit section 10J (1) and (2) from the original amendment Bill and substitute new wordings for each section.

Section 10J (1) will place an obligation on the Minister to assess the surrender obligation of each licensee on or after the census date in each relevant year. Section 10J (2) will include a provision where for each relevant year, the surrender obligation of each licensee will be no more than 20% of the total authorisations they hold on to the census date of the relevant year.

Clause 8 – New section 10J (3) (a)

This clause will omit ‘target of 3 500 authorisations by 1 July 2025’ and substitute ‘authorisations target by 1 July in the relevant year’ in section 10J (3) (a). This ensures the Minister will, as far as practicable, reduce the authorisation cap to the figure stated in Table 10IA for each relevant year.

Clause 9 – New section 10J (3) (c)

This clause will omit ‘2025’ and substitute it with ‘in the relevant year’ in section 10 (3) (c). When considering reduction in the licensee’s surrender obligation, the Minister must take into account any authorisations surrendered by the licensee between the census date and 1 May of each relevant year.

Clause 10 – New section 10J (4) (b)

This clause will omit ‘target of 3 500 authorisations’ and substitute it with ‘authorisation target for the relevant year’ in section 10J (4) (b). When determining surrender obligations, the Minister must work through a list of most to least authorisations for each licensee and add additional surrenders of authorisations to meet the prescribed authorisation target for each relevant year.

Clause 11 – New section 10J (6)

This clause will omit ‘2025’ and substitute it with ‘in the relevant year’ in section 10J (6). This sets a deadline of 1 June in each relevant year for the assessment of each licensee’s surrender obligation to be completed by the Minister.

Clause 12 – New section 10K heading

This clause will omit the heading of section 10K and substitute it with a new heading. The new heading shall read ‘Assessment not to exceed authorisations target’.

Clause 13 – New section 10K (1), except *note*

This clause will omit the proposed wording of section 10K (1) and substitute it with new wording. The new wording will give effect to the assessment of additional surrenders not being carried out in each relevant year if the number of authorisations in the Territory are at or below the authorisation target for the relevant year.

The '*note*' below the original 10K (1) shall remain in the Bill.

Clause 14 – New section 10K (2)

This clause will omit 'fewer than 3 500' and substitute it with 'below the authorisation target for the relevant year' in section 10K (2). If an assessment on the surrender obligations of each licensee has been made, and the number of authorisations fall below the authorisation target for the relevant year, the Minister must amend their assessment to reflect this.

Clause 15 – New section 10K (3)

This clause will omit the original section 10K (3) and substitute it with new wording. The new wording will mean the Minister will revoke their assessment in line with subsection (4) before 1 July of the relevant year should either (a) the number of authorisations fall below the authorisation target, or (b) the Minister believes the number of authorisations will fall below the authorisation target before 1 July of the relevant year.

Clause 16 – New section 10M (2) (a)

This clause will omit '2025' and substitute it with 'in the relevant year' in section 10M (2) (a). The Minister must notify the Commission in writing about the surrender obligations of each licensee before 17 June of the relevant year.

Clause 17 – New section 10M (5) (b)

This clause will omit '2025' and substitute it with 'in the relevant year' in section 10M (5) (b). Once the Minister has notified the Commission, the Commission will then notify licensees of the surrender obligation. If the licensee does not give the Commission a revised statement under subsection (3) or a statement under subsection (4), the Commission will consider the authorisations surrendered as of 1 July in the relevant year.

Clause 18 – New section 10N (1)

This clause will omit section 10N (1) in the original Bill and substitute it with new wording. This new wording will give effect to the surrender of authorisations identified in 10M which will be required to meet the licensee's surrender obligation for a relevant year are to be surrendered on 30 June of that relevant year.

Clause 19 – New section 10N (3)

This clause will omit '2025' and substitute it with 'in the relevant year' in section 10N (3). This will mean that by 2 July of each relevant year, the Commission must amend the authorisation certificate for each authorised premises in line with their surrender obligations.

Clause 20 – New section 10N (3) (a) and (b)

This clause will omit section 10N (3) (a) and (b) and substitute them with revised wording. When the commission amends the authorisation certificate for a licensee under subsection (3), they must reflect the numbers surrendered by 1 July of the relevant year. The certificate will also reflect surrender under section 37F which occurred during a period commencing 1 April of the relevant year and ending on 30 June of the relevant year.

Clause 21 – New section 10Q (1)

This clause will omit 'and ending on 1 July 2025' and substitute it with 'for a relevant year ending on 1 July in the relevant year' in section 10Q (1). This refers to the transfer of authorisation certificate under section 37E of the Act. Section 10Q will apply if an authorisation certificate is transferred to a licensee in a period beginning on the census date and ending on 1 July of the relevant year.

Clause 22 – New section 10R (1A)

This clause will insert a new clause (1A) into section 10R. 10R refers to certain actions prohibited. 1A will apply in relation to a relevant year in which the Minister makes an assessment under section 10J (1). This will extend the prohibition on transferring or acquiring authorisation certificates between 2 May and 2 July in a relevant year in which the Minister makes an assessment.

Clause 23 – New section 10R (1)

This clause will omit '2025 and ending on 2 July 2025' and substitute it with 'in the relevant year and ending on 2 July in the relevant year'. This will specify the time period in which authorisation certificates cannot be transferred or acquired in each relevant year.

Clause 24 – New section 10R (2)

This clause will omit '2025 and ending on 2 July 2025' and substitute it with 'in the relevant year and ending on 2 July in the relevant year'. This will give effect to a suspension of trading authorisations for gaming machines under division 6A.6 of the Act in a period beginning 2 May and ending 2 July in each relevant year.

Division 2A.4 – Expiry – pt 2A

Clause 25 – New section 10T (3)

This clause will omit ‘2025’ and substitute it with ‘2045’. This gives effect to a new expiry date of 31 December 2045 for Division 2A.3 of the Act.

Clause 26 – Dictionary, new definition of *authorisation target*

This clause will amend the definition of *authorisation target* in division 2A.4 to align with that in division 2A.3, section 10I (1).

Clause 27 – Dictionary, new definition of *census day*

This clause will amend the definition of *census date* in division 2A.4 to align with that in division 2A.3, section 10I (1).

Clause 28 – Dictionary, new definitions

This clause will omit clause 11 from the original Bill and substitute new definitions for *licensee* and *relevant year* in division 2A.4. The definition of *licensee* will align with that in division 2A.3, section 10I (1). The definition of *relevant year* will align with that in division 2A.3, section 10IA.

Clause 29 – Schedule 1, part 1.1, amendment 1.1

This clause will omit ‘3 500 or fewer’ and substitute ‘1 000 or fewer’ into part 1.1 in schedule 1 of the original amendment Bill. This is a technical amendment to the *Gambling and Racing Control Act 1999* which will amend part 2A to refer to a reduction target of 1,000 or fewer by 2045.