

Interactive Gambling Amendment (Credit and Other Measures) Act 2023

No. 114, 2023

An Act to amend the *Interactive Gambling Act 2001*, and for related purposes

Contents

1 Short title 1

2 Commencement 2

3 Schedules 2

4 Review of the operation of Part 1 of Schedule 1 2

Schedule 1—Amendments 4

Part 1—Prohibiting the use of credit 4

Interactive Gambling Act 2001 4

Part 2—Enforcement 9

Interactive Gambling Act 2001 9



Interactive Gambling Amendment (Credit and Other Measures) Act 2023

No. 114, 2023

An Act to amend the *Interactive Gambling Act 2001*, and for related purposes

[*Assented to 11 December 2023*]

The Parliament of Australia enacts:

1 Short title

 This Act is the *Interactive Gambling Amendment (Credit and Other Measures) Act 2023*.

2 Commencement

 (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 11 December 2023 |
| 2. Schedule 1, Part 1 | The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent. | 11 June 2024 |
| 3. Schedule 1, Part 2 | The day after this Act receives the Royal Assent. | 12 December 2023 |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

 (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

 Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Review of the operation of Part 1 of Schedule 1

 (1) The Minister must cause a review to be conducted of the operation of the amendments made by Part 1 of Schedule 1 to this Act.

 (2) The review must:

 (a) make provision for public consultation; and

 (b) start as soon as practicable after the end of the 2‑year period beginning on the day Part 1 of Schedule 1 commenced; and

 (c) be completed within 6 months.

 (3) The person who conducts the review must give the Minister a written report of the review.

 (4) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

Schedule 1—Amendments

Part 1—Prohibiting the use of credit

Interactive Gambling Act 2001

1 Section 3 (after paragraph (ca) of the paragraph beginning “This Act”)

Insert:

 (cb) certain interactive wagering services must not accept or offer to accept payment using specified methods, including credit cards and digital currency;

2 Section 4

Insert:

***digital currency*** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

3 Section 11A

Omit “, under a contract, arrangement or understanding”.

4 Part 2B (heading)

Repeal the heading, substitute:

Part 2B—Prohibitions relating to credit and digital currency for certain interactive wagering services

5 Section 15B

Repeal the section, substitute:

Credit must not be provided to customers of certain interactive wagering services.

Such services must also not accept or offer to accept payment using specified methods, including credit cards and digital currency.

6 Section 15C (heading)

Repeal the heading, substitute:

15C Prohibitions relating to credit and digital currency for certain interactive wagering services

7 Before subsection 15C(1)

Insert:

Offences

8 Subparagraph 15C(1)(b)(ii)

Omit “(other than by way of an independently‑issued credit card)”.

9 After subsection 15C(1)

Insert:

 (1A) A person commits an offence if the person:

 (a) intentionally provides a regulated interactive gambling service that is a wagering service; and

 (b) accepts, or offers to accept, payment in connection with the service using a method mentioned in subsection (4A) from a customer, or prospective customer, of the service who is physically present in Australia.

Penalty: 500 penalty units.

10 Subsection 15C(2)

After “subsection (1)”, insert “or (1A)”.

11 Before subsection 15C(3)

Insert:

Civil penalty provisions

12 Paragraph 15C(3)(b)

Omit “(other than by way of an independently‑issued credit card)”.

13 After subsection 15C(3)

Insert:

 (3A) A person contravenes this subsection if the person:

 (a) provides a regulated interactive gambling service that is a wagering service; and

 (b) accepts, or offers to accept, payment in connection with the service using a method mentioned in subsection (4A) from a customer, or prospective customer, of the service who is physically present in Australia.

Civil penalty: 750 penalty units.

14 Subsection 15C(4)

After “subsection (3)”, insert “or (3A)”.

15 After subsection 15C(4)

Insert:

Methods of payment

 (4A) For the purposes of paragraphs (1A)(b) and (3A)(b), the methods of payment are as follows:

 (a) a credit card;

 (b) an account, service or facility in which payment is made from a credit card linked to the account, service or facility;

 (c) digital currency;

 (d) a method of a kind determined by the Minister by legislative instrument for the purposes of this paragraph.

16 Before subsection 15C(5)

Insert:

Exceptions

17 Subsection 15C(5)

Omit “and (3)”, substitute “, (1A), (3) and (3A)”.

18 After subsection 15C(5)

Insert:

 (5A) Subsections (1A) and (3A) do not apply if the person:

 (a) did not know; and

 (b) could not, with reasonable diligence, have ascertained;

that the person was accepting, or offering to accept, payment using a method mentioned in subsection (4A).

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

19 Paragraph 15C(6)(a)

After “credit to”, insert “, or payment by the methods mentioned in subsection (4A) from,”.

20 Subsection 15C(7)

Repeal the subsection.

21 Before subsection 15C(8)

Insert:

Extended geographical jurisdiction of offences

22 At the end of subsection 15C(8)

Add “or (1A)”.

23 Subsection 15E(1)

Omit “and (3)”, substitute “, (1A), (3) and (3A)”.

24 Subsection 15F(1)

Omit “(1)”.

25 Subsection 15F(2)

Repeal the subsection.

26 Section 15G

Repeal the section.

27 After paragraph 64A(ca)

Insert:

 (cb) subsection 15C(3A); or

28 After paragraph 64C(1)(ca)

Insert:

 (cb) subsection 15C(3A);

29 After paragraph 64D(1)(ca)

Insert:

 (cb) subsection 15C(3A);

Part 2—Enforcement

Interactive Gambling Act 2001

30 Subsection 15(3) (note)

Repeal the note, substitute:

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

31 Subsection 15AA(5) (note)

Repeal the note, substitute:

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

32 Subsection 15A(3) (note)

Repeal the note, substitute:

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

33 Subsection 15C(5) (note)

Repeal the note, substitute:

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

34 Subsection 15D(1) (note)

Repeal the note, substitute:

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

35 Subsection 15E(1) (note)

Repeal the note, substitute:

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

36 After section 64D

Insert:

64E Civil penalty provisions—enforceable undertakings

Enforceable undertakings

 (1) Each civil penalty provision of this Act is enforceable under Part 6 of the Regulatory Powers Act.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

Authorised person

 (2) For the purposes of Part 6 of the Regulatory Powers Act, the ACMA is an authorised person in relation to the civil penalty provisions of this Act.

Relevant court

 (3) For the purposes of Part 6 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this Act:

 (a) the Federal Court;

 (b) the Federal Circuit and Family Court of Australia (Division 2).

Enforceable undertaking may be published on the ACMA’s website

 (4) The ACMA may publish an undertaking given in relation to a civil penalty provision of this Act on the ACMA’s website.

Extension to external Territories etc.

 (5) Part 6 of the Regulatory Powers Act, as it applies in relation to the civil penalty provisions of this Act, extends to:

 (a) every external Territory; and

 (b) acts, omissions, matters and things outside Australia.

64F Civil penalty provisions—remedial directions

 (1) This section applies if the ACMA reasonably believes that a person has contravened, or is contravening, a civil penalty provision of this Act (other than subsection (4) of this section).

 (2) The ACMA may give the person a written direction requiring the person to take specified action directed towards ensuring that the provider does not contravene the provision, or is unlikely to contravene the provision, in the future.

 (3) A person commits an offence if:

 (a) the person is subject to a direction under subsection (2); and

 (b) the person engages in conduct; and

 (c) the person’s conduct contravenes the direction.

Penalty: 50 penalty units.

 (4) A person must not contravene a direction to which the person is subject under subsection (2).

Civil penalty for contravention of this subsection: 75 penalty units.

64G Continuing contraventions

Offence

 (1) A person who contravenes subsection 64F(3) commits a separate offence in respect of each day (including a day of conviction for the offence or any later day) during which the contravention continues.

 (2) If an offence against subsection 64F(3) is a continuing offence, the maximum penalty for each day that the offence continues is 10% of the maximum penalty that could be imposed in respect of the principal offence.

Civil penalty provision

 (3) A person who contravenes subsection 64F(4) engages in a separate contravention of that subsection in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

 (4) If a contravention of subsection 64F(4) is a continuing contravention, the maximum civil penalty for each day that the contravention continues is 10% of the maximum civil penalty that could be imposed in respect of the principal contravention.

[*Minister’s second reading speech made in—*

*House of Representatives on 13 September 2023*

*Senate on 15 November 2023*]

(112/23)