

2016

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

## **Interactive Gambling Amendment Bill 2016**

**No.     , 2016**

*(Communications and the Arts)*

**A Bill for an Act to amend the *Interactive Gambling Act 2001*, and for other purposes**



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# **A Bill for an Act to amend the *Interactive Gambling Act 2001*, and for other purposes**

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Interactive Gambling Amendment Act 2016*.

## **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.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	The 28th day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted.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**

- (1) Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

## **Schedule 1—Amendments**

### **Part 1—Amendments**

#### *Australian Communications and Media Authority Act 2005*

##### **1 Section 3 (after subparagraph (b)(i) of the definition of authorised disclosure information)**

Insert:

- (ia) Part 3, 4 or 5 of the *Interactive Gambling Act 2001*; or

##### **2 Section 3**

Insert:

*foreign country* includes a region, where:

- (a) the region is a colony, territory or protectorate of a foreign country; or
- (b) the region is part of a foreign country; or
- (c) the region is under the protection of a foreign country; or
- (d) a foreign country exercises jurisdiction or control over the region; or
- (e) a foreign country is responsible for the region's international relations.

*gambling service* has the same meaning as in the *Interactive Gambling Act 2001*.

*prohibited interactive gambling service* has the same meaning as in the *Interactive Gambling Act 2001*.

*regulated interactive gambling service* has the same meaning as in the *Interactive Gambling Act 2001*.

##### **3 After paragraph 59D(1)(g)**

Insert:

- (ga) the Secretary of the Department administered by the Minister administering the *Migration Act 1958* or an APS employee in that Department whose duties relate to that Act;

#### **4 At the end of subsection 59D(1)**

Add:

- ; (p) an authority of a foreign country responsible for regulating matters relating to the provision of gambling services.

#### **5 After subsection 59D(1)**

Insert:

- (1A) Subsection (1) does not authorise the disclosure of information to an authority mentioned in paragraph (1)(ga) or (p) unless the information relates to:
  - (a) a prohibited interactive gambling service; or
  - (b) a regulated interactive gambling service.

### ***Interactive Gambling Act 2001***

#### **6 Section 3**

Repeal the section, substitute:

#### **3 Simplified outline of this Act**

- This Act imposes the following prohibitions:
  - (a) a prohibited interactive gambling service must not be provided to customers in Australia;
  - (b) unlicensed regulated interactive gambling services must not be provided to customers in Australia;
  - (c) an Australian-based prohibited interactive gambling service must not be provided to customers in designated countries;
  - (d) prohibited interactive gambling services must not be advertised;
  - (e) unlicensed regulated interactive gambling services must not be advertised.
- The ACMA may, on its own initiative, or in response to a complaint, investigate whether a person has contravened a provision of this Act that imposes any of those prohibitions.



- A body or association that represents internet service providers may develop an industry code.
- The ACMA has a reserve power to make an industry standard if there is no industry code or if an industry code is deficient.
- The ACMA must notify prohibited internet gambling content to internet service providers so that the providers can deal with the content in accordance with procedures specified in an industry code or industry standard.

## 7 Section 4

Insert:

*ACMA official* has the same meaning as in the *Australian Communications and Media Authority Act 2005*.

*carriage service* has the same meaning as in the *Telecommunications Act 1997*.

*civil penalty order* has the same meaning as in the Regulatory Powers Act.

*civil penalty provision* has the same meaning as in the Regulatory Powers Act.

*designated interactive gambling service* means:

- (a) a prohibited interactive gambling service; or
- (b) an unlicensed regulated interactive gambling service.

*electronic equipment* includes:

- (a) an electronic apparatus; and
- (b) an electronic device.

*Federal Circuit Court* means the Federal Circuit Court of Australia.

*illegal interactive gambling service* means a prohibited interactive gambling service that is provided in contravention of subsection 15(2A).

*in-play betting service* has the meaning given by section 10B.

**8 Section 4 (definition of *interactive gambling service*)**

Repeal the definition.

**9 Section 4**

Insert:

*personal information* has the same meaning as in the *Privacy Act 1988*.

*place-based betting service* has the meaning given by section 8BA.

*prohibited interactive gambling service* has the meaning given by section 5.

Note: This definition relates to the offence provisions and civil penalty provisions set out in section 15 and Part 7A.

**10 Section 4 (definition of *prohibited internet gambling content*)**

Repeal the definition, substitute:

*prohibited internet gambling content* has the meaning given by section 8F.

**11 Section 4 (definition of *prohibited internet gambling service*)**

Repeal the definition.

**12 Section 4**

Insert:

*regulated interactive gambling service* has the meaning given by section 8E.

*Regulatory Powers Act* means the *Regulatory Powers (Standard Provisions) Act 2014*.

**13 Section 4 (definition of *special access-prevention notice*)**

Repeal the definition.

**14 Section 4**

Insert:

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*sporting event* has a meaning affected by section 10A.

**15 Section 4**

Repeal the following definitions:

- (a) definition of *standard access-prevention notice*;
- (b) definition of *standard telephone service*.

**16 Section 4 (definition of telephone betting service)**

Repeal the definition, substitute:

*telephone betting service* has the meaning given by section 8AA.

**17 Section 4**

Insert:

*trade promotion gambling service* has the meaning given by section 8BB.

*unlicensed regulated interactive gambling service* means a regulated interactive gambling service that is provided in contravention of subsection 15AA(3).

*wholesale gambling service* means a gambling service to the extent to which it is provided to a person who:

- (a) is the provider of a gambling service; and
- (b) holds a licence (however described) under a law of a State or Territory that authorises the provision of the service mentioned in paragraph (a).

**18 Section 4 (definition of voice call)**

Repeal the definition.

**19 Section 5 (heading)**

Repeal the heading, substitute:

**5 Prohibited interactive gambling services**

**20 Subsection 5(1)**

Omit “an *interactive*”, substitute “a *prohibited interactive*”.

**21 Subsection 5(1) (note)**

Omit “offences created by”, substitute “offence provisions and civil penalty provisions set out in”.

**22 Subsection 5(3)**

Omit “an *interactive*”, substitute “a *prohibited interactive*”.

**23 After paragraph 5(3)(ab)**

Insert:

(aba) a place-based betting service (see section 8BA);

**23A After paragraph 5(3)(b)**

Insert:

(ba) a wholesale gambling service;

(bb) a trade promotion gambling service (see section 8BB);

**24 Section 6**

Repeal the section.

**25 After section 8**

Insert:

**8AA Telephone betting service**

- (1) For the purposes of this Act, a *telephone betting service* is a gambling service, where:
  - (a) the service is provided on the basis that dealings with customers are wholly by way of voice calls made using a carriage service; and
  - (b) the conditions (if any) determined under subsection (2) have been satisfied.
- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of paragraph (1)(b).
- (3) For the purposes of this section, *voice call* means:
  - (a) a voice call (within the ordinary meaning of that expression) the content of which consists wholly of a spoken conversation between individuals; or

- (b) if a call covered by paragraph (a) is not practical for a particular customer with a disability (for example, because the customer has a hearing impairment)—a call that is equivalent to a call covered by that paragraph.
- (4) The following are examples of calls that are not covered by paragraph (3)(a):
  - (a) a call the content of which includes a recorded or synthetic voice;
  - (b) a call the content of which includes one or more tone signals.
- (5) Paragraph (3)(a) and subsection (4) have effect subject to subsections (6) and (7).
- (6) For the purposes of this section, in determining whether a call is covered by paragraph (3)(a), disregard any recorded or synthetic voice used for either or both of the following purposes:
  - (a) call waiting;
  - (b) a menu system for transferring callers to an extension.
- (7) For the purposes of this section, in determining whether a call is covered by paragraph (3)(a), disregard any tone signal used for the sole purpose of a menu system for transferring callers to an extension.
- (8) Despite subsection (1), if a gambling service is provided on the basis that any or all of the following information can be provided by a customer otherwise than by way of a voice call:
  - (a) a selection of a bet;
  - (b) a selection of a bet type;
  - (c) a nomination of a bet amount;
  - (d) a confirmation of a bet;
  - (e) information of a kind determined under subsection (9);the service is not a **telephone betting service** for the purposes of this Act.
- (9) The Minister may, by legislative instrument, determine one or more kinds of information for the purposes of paragraph (8)(e).

## **26 Section 8A**

Repeal the section, substitute:

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## 8A Excluded wagering service

### *Racing*

- (1) For the purposes of this Act, a service is an ***excluded wagering service*** to the extent to which the service relates to betting on, or on a series of, any or all of the following:
  - (a) a horse race;
  - (b) a harness race;
  - (c) a greyhound race;so long as the other conditions (if any) determined under subsection (2) have been satisfied.
- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (1).

### *Sporting events*

- (3) For the purposes of this Act, a service is an ***excluded wagering service***:
  - (a) to the extent to which the service relates to betting on, or on a series of, sporting events; and
  - (b) to the extent to which the service is not an in-play betting service;so long as the other conditions (if any) determined under subsection (4) have been satisfied.
- (4) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (3).

### *Other events or contingencies*

- (5) For the purposes of this Act, a service is an ***excluded wagering service***:
  - (a) to the extent to which the service relates to betting on:
    - (i) an event; or
    - (ii) a series of events; or
    - (iii) a contingency;that is not covered by subsection (1) or (3); and
  - (b) to the extent to which the service is not an in-play betting service; and

- (c) to the extent to which the service is not covered by any of the following subparagraphs:
  - (i) a service for the conduct of a scratch lottery or other instant lottery;
  - (ii) a service for the supply of tickets in a scratch lottery or other instant lottery;
  - (iii) a service relating to betting on the outcome of a scratch lottery or other instant lottery;
  - (iv) a service for the conduct of a game covered by paragraph (e) of the definition of *gambling service* in section 4;
  - (v) a service relating to betting on the outcome of a game of chance or of mixed chance and skill;so long as the other conditions (if any) determined under subsection (6) have been satisfied.
- (6) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (5).
- (7) For the purposes of paragraph (5)(a):
  - (a) assume that no conditions have been determined under subsection (2) or (4); and
  - (b) disregard paragraph (3)(b).

## **27 Section 8B**

Repeal the section, substitute:

### **8B Excluded gaming service**

- (1) For the purposes of this Act, an *excluded gaming service* is a service for the conduct of a game covered by paragraph (e) of the definition of *gambling service* in section 4:
  - (a) to the extent to which the service is provided to customers who are at a particular place; and
  - (b) to the extent to which the service is provided on the basis that:
    - (i) dealings with customers involve the use of electronic equipment made available to customers at that place; and

- (ii) the electronic equipment is available for use by any customer who is at that place;
- so long as:
- (c) the provider of the service holds a licence (however described) under a law of a State or Territory that authorises the provision of the service at that place; and
  - (d) the other conditions (if any) determined under subsection (2) have been satisfied.
- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of paragraph (1)(d).

### **8BA Place-based betting service**

- (1) For the purposes of this Act, a ***place-based betting service*** is a service covered by paragraph (a) or (b) of the definition of ***gambling service*** in section 4:
- (a) to the extent to which the service is provided to customers who are at a particular place; and
  - (b) to the extent to which the service is provided on the basis that:
    - (i) dealings with customers involve the use of electronic equipment made available to customers at that place; and
    - (ii) the electronic equipment is available for use by any customer who is at that place; and
    - (iii) the electronic equipment is not available for use by customers in connection with another gambling service unless the other gambling service is provided by the provider of the first-mentioned service;
- so long as:
- (c) the provider of the service holds a licence (however described) under a law of a State or Territory that authorises the provision of the service at that place; and
  - (d) the other conditions (if any) determined under subsection (2) have been satisfied.
- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of paragraph (1)(d).



### **8BB Trade promotion gambling service**

- (1) For the purposes of this Act, a *trade promotion gambling service* is:
  - (a) a service for the conduct of a lottery, where the lottery is conducted in connection with a competition for the promotion of trade; or
  - (b) a service for the conduct of a game of chance or of mixed chance and skill, where the game is conducted in connection with a competition for the promotion of trade;so long as the other conditions (if any) determined under subsection (2) have been satisfied.
- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (1).
- (3) For the purposes of this section, *trade* does not include the provision of a gambling service.

### **28 After section 8D**

Insert:

### **8E Regulated interactive gambling service**

- (1) For the purposes of this Act, a *regulated interactive gambling service* is:
  - (a) a telephone betting service (see section 8AA); or
  - (b) an excluded wagering service (see section 8A); or
  - (c) an excluded gaming service (see section 8B); or
  - (d) a place-based betting service (see section 8BA); or
  - (e) a service that has a designated broadcasting link (see section 8C); or
  - (f) a service that has a designated datacasting link (see section 8C); or
  - (g) an excluded lottery service (see section 8D); or
  - (h) an exempt service (see section 10);where:
  - (i) the service is provided in the course of carrying on a business; and

- (j) the service is provided to customers using any of the following:
    - (i) an internet carriage service;
    - (ii) any other listed carriage service;
    - (iii) a broadcasting service;
    - (iv) any other content service;
    - (v) a datacasting service; and
  - (k) in the case of an exempt service—a determination under subsection (2) is in force in relation to the service.
- (2) The Minister may, by legislative instrument, determine that each exempt service included in a specified class of exempt services is covered by paragraph (1)(k).
- (3) Subsection (1) has effect subject to subsection (4).
- (4) For the purposes of this Act, neither of the following services is a **regulated interactive gambling service**:
  - (a) a wholesale gambling service;
  - (b) a trade promotion gambling service (see section 8BB).

#### **8F Prohibited internet gambling content**

For the purposes of this Act, if:

- (a) an ordinary reasonable person would conclude that the sole or primary purpose of particular internet content is to enable a person to enter into dealings in the capacity of customer of either or both of the following:
    - (i) one or more illegal interactive gambling services;
    - (ii) one or more unlicensed regulated interactive gambling services; and
  - (b) end-users in Australia can access the internet content;
- the internet content is **prohibited internet gambling content**.

#### **29 Paragraph 9A(3)(b)**

Repeal the paragraph, substitute:

- (b) there is in force in that country legislation that corresponds to:
  - (i) section 15; or

- (ii) section 15 (other than the offence provision in that section); or
- (iii) section 15 (other than the civil penalty provision in that section).

### **30 Subsection 10(1)**

After “each”, insert “gambling”.

### **31 Subsection 10(1)**

After “class of”, insert “gambling”.

### **32 After section 10**

Insert:

#### **10A Sporting event**

- (1) The Minister may, by legislative instrument, determine that a specified thing is taken to be a *sporting event* for the purposes of this Act.
- (2) The Minister may, by legislative instrument, determine that:
  - (a) a specified thing is taken to be a *sporting event* for the purposes of this Act; and
  - (b) the outcome of the specified thing is taken not to be a contingency for the purposes of paragraph 10B(b).
- (3) The Minister may, by legislative instrument, determine that a specified thing is taken not to be a *sporting event* for the purposes of this Act.
- (4) The following are examples of things that may be specified in a determination under subsection (1), (2) or (3):
  - (a) a match;
  - (b) a series of matches;
  - (c) a race;
  - (d) a series of races;
  - (e) a stage;
  - (f) a time trial;
  - (g) a qualification session;
  - (h) a tournament;

(i) a round.

(5) For the purposes of this section, *thing* includes a series of things.

### **10B In-play betting service**

For the purposes of this Act, a gambling service is an *in-play betting service* to the extent to which:

- (a) the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event; or
- (b) the service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event.

### **33 Part 2 (heading)**

Repeal the heading, substitute:

## **Part 2—Designated interactive gambling services not to be provided to customers in Australia**

### **34 Section 15 (heading)**

Repeal the heading, substitute:

### **15 Prohibited interactive gambling services not to be provided to customers in Australia**

### **35 Paragraph 15(1)(a)**

Omit “an interactive”, substitute “a prohibited interactive”.

### **35A Subsection 15(1) (penalty)**

Omit “2,000”, substitute “5,000”.

### **36 After subsection 15(2)**

Insert:

(2A) A person must not provide a prohibited interactive gambling service that has an Australian-customer link (see section 8).

Civil penalty: 7,500 penalty units.

(2B) A person who contravenes subsection (2A) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

### **37 Subsection 15(3)**

Omit “Subsection (1) does”, substitute “Subsections (1) and (2A) do”.

### **38 Subsection 15(3) (note)**

Omit “The”, substitute “In the case of proceedings for an offence against subsection (1), the”.

### **39 At the end of Part 2**

Add:

#### **15AA Unlicensed regulated interactive gambling services not to be provided to customers in Australia**

- (1) A person commits an offence if:
- (a) the person intentionally provides a particular kind of regulated interactive gambling service; and
  - (b) the service has an Australian-customer link (see section 8); and
  - (c) the person does not hold a licence (however described) under a law of a State or Territory that authorises the provision of that kind of service in the State or Territory.

Penalty: 5,000 penalty units.

- (2) A person who contravenes subsection (1) 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.
- (3) A person must not provide a particular kind of regulated interactive gambling service if:

- (a) the service has an Australian-customer link (see section 8);  
and
- (b) the person does not hold a licence (however described) under a law of a State or Territory that authorises the provision of that kind of service in the State or Territory.

Civil penalty: 7,500 penalty units.

- (4) A person who contravenes subsection (3) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).
- (5) Subsections (1) and (3) do not apply if the person:
  - (a) did not know; and
  - (b) could not, with reasonable diligence, have ascertained;that the service had an Australian-customer link.

Note: In the case of proceedings for an offence against subsection (1), the defendant bears an evidential burden in relation to the matters in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

- (6) For the purposes of subsection (5), in determining whether the person could, with reasonable diligence, have ascertained that the service had an Australian-customer link, the following matters are to be taken into account:
  - (a) whether prospective customers were informed that Australian law prohibits the provision of the service to customers who are physically present in Australia;
  - (b) whether customers were required to enter into contracts that were subject to an express condition that the customer was not to use the service if the customer was physically present in Australia;
  - (c) whether the person required customers to provide personal details and, if so, whether those details suggested that the customer was not physically present in Australia;
  - (d) whether the person has network data that indicates that customers were physically present outside Australia:
    - (i) when the relevant customer account was opened; and
    - (ii) throughout the period when the service was provided to the customer;
  - (e) any other relevant matters.

- (7) If a person holds a licence (however described) under a law of a State or Territory that authorises the provision of a particular kind of regulated interactive gambling service in the State or Territory, the person does not contravene subsection (1) or (3) by providing that kind of service:
- (a) in the State or Territory; or
  - (b) outside the State or Territory.
- (8) Subsection (7) is enacted for the avoidance of doubt.
- (9) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

**40 Part 2A (heading)**

Repeal the heading, substitute:

**Part 2A—Australian-based prohibited interactive gambling services not to be provided to customers in designated countries**

**41 Section 15A (heading)**

Repeal the heading, substitute:

**15A Australian-based prohibited interactive gambling services not to be provided to customers in designated countries**

**42 Paragraph 15A(1)(a)**

After “Australian-based”, insert “prohibited”.

**42A Subsection 15A(1) (penalty)**

Omit “2,000”, substitute “5,000”.

**43 After subsection 15A(2)**

Insert:

- (2A) A person must not provide an Australian-based prohibited interactive gambling service that has a designated country-customer link (see section 9B).

Civil penalty: 7,500 penalty units.

(2B) A person who contravenes subsection (2A) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

**44 Subsection 15A(3)**

Omit “Subsection (1) does”, substitute “Subsections (1) and (2A) do”.

**45 Subsection 15A(3) (note)**

Omit “The”, substitute “In the case of proceedings for an offence against subsection (1), the”.

**46 Subsection 15A(6)**

After “*Australian-based*”, insert “*prohibited*”.

**47 Subsection 15A(6)**

Omit “an interactive”, substitute “a prohibited interactive”.

**48 Subsection 15A(7)**

Omit “an interactive”, substitute “a prohibited interactive”.

**49 Subsection 15A(8)**

Omit “an interactive”, substitute “a prohibited interactive”.

**50 Part 3 (heading)**

Repeal the heading, substitute:

**Part 3—Complaints system: gambling services etc.**

**51 Section 16**

Repeal the section, substitute:

**16 Complaints in relation to gambling services etc.**

If a person (the *first person*) has reason to believe that another person has contravened a provision of:

(a) Part 2; or



- (b) Part 2A; or
  - (c) Part 7A;
- the first person may make a complaint to the ACMA about the matter.

**52 Paragraph 21(1)(a)**

Repeal the paragraph, substitute:

- (a) whether a person has contravened a provision of:
  - (i) Part 2; or
  - (ii) Part 2A; or
  - (iii) Part 7A;

**53 Subsection 21(2)**

Repeal the subsection, substitute:

*Referral of complaint to an Australian police force*

- (2) If a complaint alleges that a person has contravened an offence provision of this Act, the ACMA may refer the complaint, to the extent that the complaint relates to the alleged contravention, to a member of an Australian police force.
- (2A) If the ACMA refers a complaint to a member of an Australian police force, the ACMA must give written notice to the complainant stating that the complaint has been so referred.

**54 Division 3 of Part 3 (heading)**

Repeal the heading, substitute:

**Division 3—Action to be taken in relation to prohibited internet gambling content**

**55 Section 24 (heading)**

Repeal the heading, substitute:

**24 Action to be taken in relation to prohibited internet gambling content**

**56 Subsection 24(1)**

Omit “, in the course of an investigation under Division 2,”.

**57 Subsection 24(1)**

Omit “hosted outside Australia”.

**58 Paragraph 24(1)(b)**

Omit “be; and”, substitute “be.”.

**59 Paragraph 24(1)(c)**

Repeal the paragraph.

**60 Subsection 24(1) (note)**

Repeal the note.

**61 Subsections 24(2) to (6)**

Repeal the subsections.

**62 Paragraph 25(1)(a)**

Omit “in the course of an investigation under Division 2,”.

**63 Paragraph 25(1)(a)**

Omit “hosted outside Australia”.

**64 Paragraph 26(b)**

After “satisfied that”, insert “there is”.

**65 Paragraph 26(b)**

Omit “is being hosted outside Australia”.

**66 Sections 27, 28, 30 and 31**

Repeal the sections.

**67 Paragraphs 54(a) and (b)**

Repeal the paragraphs.

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**68 Section 55**

Before “A person”, insert “(1)”.

**69 Section 55 (note)**

Repeal the note.

**70 At the end of section 55**

Add:

- (2) A person must not contravene an online provider rule that is applicable to the person.

Civil penalty: 75 penalty units.

**71 Subsection 56(4) (penalty)**

Omit “for contravention of this subsection”.

**72 Subsection 56(4) (note)**

Repeal the note.

**73 At the end of section 56**

Add:

- (5) 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.

**74 Section 57**

Omit “section 55”, substitute “subsection 55(1)”.

**75 After section 57**

Insert:

**57A Continuing contravention of civil penalty provisions**

- (1) A person who contravenes subsection 55(2) or 56(5) engages in a separate contravention of subsection 55(2) or 56(5), as the case may be, in respect of each day during which the contravention

occurs (including the day the relevant civil penalty order is made or any later day).

- (2) If a contravention of subsection 55(2) or 56(5) 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.

**76 Subsection 60(1)**

Omit “(1)”.

**77 Subsection 60(2)**

Repeal the subsection.

**78 Subsection 61(1)**

Repeal the subsection, substitute:

- (1) Applications may be made to the Administrative Appeals Tribunal for review of any of the following decisions made by the ACMA:
- (a) a decision under section 42 or 56 to give a direction to an internet service provider;
  - (b) a decision under section 42 or 56 to vary a direction that is applicable to an internet service provider;
  - (c) a decision under section 42 or 56 to refuse to revoke a direction that is applicable to an internet service provider.

**79 Subsection 61(3)**

Omit “Tribunal”, substitute “Administrative Appeals Tribunal”.

**80 Paragraph 61(5)(b)**

Omit “Tribunal”, substitute “Administrative Appeals Tribunal”.

**81 Subsection 61(6)**

Repeal the subsection.

**82 Part 7A (heading)**

Repeal the heading, substitute:

## **Part 7A—Prohibition of advertising of designated interactive gambling services**

### **83 Section 61AA**

Insert:

*designated interactive gambling service advertisement* has the meaning given by Division 2.

*designated interactive gambling service provider* means a person who provides a designated interactive gambling service.

### **84 Section 61AA**

Repeal the following definitions:

- (a) definition of *interactive gambling service advertisement*;
- (b) definition of *interactive gambling service provider*.

### **85 Section 61AA (definition of *publish*)**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

### **86 Division 2 of Part 7A (heading)**

Repeal the heading, substitute:

## **Division 2—Interpretation: designated interactive gambling service advertisement**

### **87 Section 61BA (heading)**

Repeal the heading, substitute:

## **61BA Basic meaning of designated interactive gambling service advertisement**

### **88 Subsection 61BA(1)**

Omit “an *interactive*”, substitute “a *designated interactive*”.

### **89 Paragraph 61BA(1)(a)**

Omit “an interactive”, substitute “a designated interactive”.

**90 Paragraph 61BA(1)(b)**

Omit “interactive”, substitute “designated interactive”.

**91 Paragraphs 61BA(1)(c), (d) and (e)**

Omit “an interactive”, substitute “a designated interactive”.

**92 Paragraph 61BB(1)(a)**

Omit “any particular interactive”, substitute “any particular designated interactive”.

**93 Section 61BB**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**94 Subsection 61BB(2)**

Omit “or interactive”, substitute “or designated interactive”.

**95 Section 61BC**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**96 Paragraph 61BC(a)**

Omit “other interactive”, substitute “other designated interactive”.

**97 Section 61BD**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**98 Section 61BE**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**99 Section 61BF (heading)**

Repeal the heading, substitute:

**61BF Exception—products or services having the same name as a designated interactive gambling service**

**100 Paragraph 61BF(1)(a)**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**101 Paragraph 61BF(1)(b)**

Omit “the interactive”, substitute “the designated interactive”.

**102 Subsection 61BF(1)**

Omit “an interactive” (last occurring), substitute “a designated interactive”.

**103 Section 61BG**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**104 Section 61BGA**

Omit “an interactive”, substitute “a designated interactive”.

**105 Division 3 of Part 7A (heading)**

Repeal the heading, substitute:

**Division 3—Interpretation: publication of designated interactive gambling service advertisements**

**106 Section 61CA (heading)**

Repeal the heading, substitute:

**61CA Basic meaning of publish a designated interactive gambling service advertisement**

**107 Subsection 61CA(1)**

Omit “an interactive”, substitute “a designated interactive”.

**108 Section 61CB**

Omit “an interactive”, substitute “a designated interactive”.

**109 Section 61CC**

Omit “an interactive”, substitute “a designated interactive”.

**110 Section 61CC**

After “provision of”, insert “designated”.

**111 Section 61CC**

Omit “the interactive”, substitute “the designated interactive”.

**112 Section 61CD**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**113 Section 61CE**

Omit “an interactive”, substitute “a designated interactive”.

**114 Section 61CF**

Omit “an interactive”, substitute “a designated interactive”.

**115 Division 4 of Part 7A (heading)**

Repeal the heading, substitute:

**Division 4—Broadcasting or datacasting of designated  
interactive gambling service advertisements in  
Australia**

**116 Section 61DA (heading)**

Repeal the heading, substitute:

**61DA Designated interactive gambling service advertisements not to  
be broadcast or datacast in Australia**

**117 Paragraph 61DA(1)(a)**

Omit “an interactive”, substitute “a designated interactive”.

**118 After subsection 61DA(1)**

Insert:

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(1A) A person must not broadcast or datacast a designated interactive gambling service advertisement in Australia if:

- (a) the broadcast or datacast is not permitted by section 61DB;  
and
- (b) the broadcast or datacast is not permitted by section 61DC.

Civil penalty: 180 penalty units.

**119 Paragraph 61DA(2)(a)**

Omit “an interactive”, substitute “a designated interactive”.

**120 Subsection 61DA(2) (penalty)**

Omit “for contravention of this subsection”.

**121 At the end of section 61DA**

Add:

(3) A person must not authorise or cause a designated interactive gambling service advertisement to be broadcast or datacast in Australia if:

- (a) the broadcast or datacast is not permitted by section 61DB;  
and
- (b) the broadcast or datacast is not permitted by section 61DC.

Civil penalty for contravention of this subsection: 180 penalty units.

**122 Subsection 61DB(1)**

Omit “an interactive”, substitute “a designated interactive”.

**123 Subsection 61DC(1)**

Omit “an interactive”, substitute “a designated interactive”.

**124 Division 5 of Part 7A (heading)**

Repeal the heading, substitute:

## **Division 5—Publication of designated interactive gambling service advertisements in Australia**

### **125 Section 61EA (heading)**

Repeal the heading, substitute:

### **61EA Designated interactive gambling service advertisements not to be published in Australia**

### **126 Paragraph 61EA(1)(a)**

Omit “an interactive”, substitute “a designated interactive”.

### **127 After subsection 61EA(1)**

Insert:

(1A) A person must not publish a designated interactive gambling service advertisement in Australia if:

- (a) the publication is not permitted by section 61EB; and
- (b) the publication is not permitted by section 61ED; and
- (c) the publication is not permitted by section 61EE; and
- (d) the publication is not permitted by section 61EF.

Civil penalty: 180 penalty units.

### **128 Paragraph 61EA(2)(a)**

Omit “an interactive”, substitute “a designated interactive”.

### **129 After subsection 61EA(2)**

Insert:

(2A) A person must not authorise or cause a designated interactive gambling service advertisement to be published in Australia if:

- (a) the publication is not permitted by section 61EB; and
- (b) the publication is not permitted by section 61ED; and
- (c) the publication is not permitted by section 61EE; and
- (d) the publication is not permitted by section 61EF.

Civil penalty: 180 penalty units.

**130 Subsection 61EA(3)**

Omit “an interactive”, substitute “a designated interactive”.

**131 Subsection 61EB(1)**

Omit “an interactive”, substitute “a designated interactive”.

**132 Subsection 61ED(1)**

Omit “an interactive”, substitute “a designated interactive”.

**133 Subsection 61EE(1)**

Omit “an interactive”, substitute “a designated interactive”.

**134 Paragraph 61EE(1)(a)**

Omit “of interactive”, substitute “of designated interactive”.

**135 Subsection 61EF(1)**

Omit “an interactive”, substitute “a designated interactive”.

**136 Section 61FA**

Omit “an interactive”, substitute “a designated interactive”.

**137 Section 61FD**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**138 Section 61FE**

Repeal the section.

**139 After section 64**

Insert:

**64A Civil penalty provisions—formal warnings**

The ACMA may issue a formal warning if a person contravenes:

- (a) subsection 15(2A); or
- (b) subsection 15AA(3); or
- (c) subsection 15A(2A); or
- (d) subsection 55(2); or

- (e) subsection 56(5); or
- (f) subsection 61DA(1A); or
- (g) subsection 61DA(3); or
- (h) subsection 61EA(1A); or
- (i) subsection 61EA(2A).

#### **64B Civil penalty provisions—enforcement**

##### *Enforceable civil penalty provision*

- (1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

##### *Authorised applicant*

- (2) For the purposes of Part 4 of the Regulatory Powers Act, the ACMA is an authorised applicant in relation to the civil penalty provisions of this Act.

##### *Relevant court*

- (3) For the purposes of Part 4 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 Court.

##### *Extension to external Territories etc.*

- (4) Part 4 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.

## **64C Civil penalty provisions—infringement notices**

### *Provisions subject to an infringement notice*

- (1) The following provisions are subject to an infringement notice under Part 5 of the Regulatory Powers Act:
  - (a) subsection 15(2A);
  - (b) subsection 15AA(3);
  - (c) subsection 15A(2A);
  - (d) subsection 55(2);
  - (e) subsection 56(5);
  - (f) subsection 61DA(1A);
  - (g) subsection 61DA(3);
  - (h) subsection 61EA(1A);
  - (i) subsection 61EA(2A).

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

### *Infringement officer*

- (2) For the purposes of Part 5 of the Regulatory Powers Act, a member of the staff of the ACMA authorised, in writing, by the ACMA for the purposes of this subsection is an infringement officer in relation to the provisions mentioned in subsection (1).

### *Relevant chief executive*

- (3) For the purposes of Part 5 of the Regulatory Powers Act, the Chair of the ACMA is the relevant chief executive in relation to the provisions mentioned in subsection (1).
- (4) The relevant chief executive may, in writing, delegate any or all of his or her powers and functions under Part 5 of the Regulatory Powers Act to a person who is:
  - (a) a member of the staff of the ACMA; and
  - (b) an SES employee or an acting SES employee.
- (5) A person exercising powers or performing functions under a delegation under subsection (4) must comply with any directions of the relevant chief executive.

*Extension to external Territories etc.*

- (6) Part 5 of the Regulatory Powers Act, as it applies in relation to the provisions mentioned in subsection (1), extends to:
- (a) every external Territory; and
  - (b) acts, omissions, matters and things outside Australia.

**64D Civil penalty provisions—injunctions**

*Enforceable provisions*

- (1) The following provisions are enforceable under Part 7 of the Regulatory Powers Act:
- (a) subsection 15(2A);
  - (b) subsection 15AA(3);
  - (c) subsection 15A(2A);
  - (d) subsection 55(2);
  - (e) subsection 56(5);
  - (f) subsection 61DA(1A);
  - (g) subsection 61DA(3);
  - (h) subsection 61EA(1A);
  - (i) subsection 61EA(2A).

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

*Authorised person*

- (2) For the purposes of Part 7 of the Regulatory Powers Act, the ACMA is an authorised person in relation to the provisions mentioned in subsection (1).

*Relevant court*

- (3) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
- (a) the Federal Court;
  - (b) the Federal Circuit Court.

*Extension to external Territories etc.*

- (4) Part 7 of the Regulatory Powers Act, as it applies in relation to the provisions mentioned in subsection (1), extends to:
- (a) every external Territory; and
  - (b) acts, omissions, matters and things outside Australia.

**140 Subsection 66(1)**

Omit “(1)”.

**141 Subsection 66(2)**

Repeal the subsection.

**142 After section 67**

Insert:

**68 Register**

- (1) The ACMA is to maintain a register in which the ACMA may include:
- (a) the names of eligible regulated interactive gambling services; and
  - (b) if the name of an eligible regulated interactive gambling service is included in the register:
    - (i) the name of the provider of the service; and
    - (ii) such other information relating to the service as the ACMA considers should be included in the register.
- (2) Subparagraph (1)(b)(ii) does not authorise the inclusion of personal information in the register.
- (3) The register is to be maintained by electronic means.
- (4) The register is to be made available for inspection on the ACMA’s website.
- (5) The register is not a legislative instrument.

*Liability for damages*

- (6) The Commonwealth, the ACMA, or an ACMA official, is not liable to an action or other proceeding for damages for, or in

relation to, an act or matter in good faith done or omitted to be done:

- (a) in the performance or purported performance of any function;  
or
- (b) in the exercise or purported exercise of any power;  
conferred on the ACMA by this section.

*Review of decisions*

- (7) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the ACMA not to include the name of an eligible regulated interactive gambling service in the register.

*Eligible regulated interactive gambling service*

- (8) For the purposes of this section, an ***eligible regulated interactive gambling service*** is a regulated interactive gambling service that is:
  - (a) covered by paragraph (a) or (b) of the definition of ***gambling service*** in section 4; and
  - (b) not provided in contravention of subsection 15AA(3).

**143 Subsection 69A(3)**

Repeal the subsection.

***Interactive Gambling Regulations 2001***

**144 Regulation 3 (heading)**

Repeal the heading, substitute:

**3 Designated interactive gambling service advertisements—  
exceptions**

**145 Regulation 3**

Omit “an interactive” (wherever occurring), substitute “a designated interactive”.

**146 Paragraph 3(b)**

Before “interactive”, insert “designated”.



## **Part 2—Application and transitional provisions**

### **147 Application of amendments—investigations**

Despite the amendments of the following provisions of the *Interactive Gambling Act 2001* made by this Schedule:

- (a) Part 1;
- (b) Division 1 of Part 3;
- (c) Division 2 of Part 3;

that Act continues to apply, in relation to an investigation under Division 2 of Part 3 of that Act that began before the commencement of this item, as if those amendments had not been made.

### **148 Transitional—industry code**

#### *Scope*

- (1) This item applies to an industry code if:
  - (a) the code is registered under Part 4 of the *Interactive Gambling Act 2001*; and
  - (b) the registration was in force immediately before the commencement of this item.

#### *Interpretation of code*

- (2) Section 10 of the *Acts Interpretation Act 1901* applies to the code as if it were an Act.

Note 1: Section 10 of the *Acts Interpretation Act 1901* deals with references to Acts.

Note 2: See also item 8 of Schedule 4 to the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005*, which deals with references to the ABA.

#### *Effect of code*

- (3) The code has effect as if the words “hosted outside Australia” were omitted from the headings to Part 5 and clause 5.1 of the code.

*Replacement of code*

- (4) This item does not, by implication, prevent the code from being replaced in accordance with section 41 of the *Interactive Gambling Act 2001*.

**149 Application of amendment—reports to Parliament**

Despite the repeal of section 61FE of the *Interactive Gambling Act 2001* by this Schedule, that section continues to apply, in relation to any contraventions of Part 7A of that Act that occurred during the 12-month period ending at the end of 31 December 2015, as if that repeal had not happened.